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## THE EUROPEANISATION OF GERMAN, FRENCH AND LUXEMBOURGISH ECONOMIC INTEREST GROUPS: THE CASE OF THE BLUE CARD DIRECTIVE POLICY-MAKING PROCESS

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## Abstract

The Europeanisation of interest groups has been the subject of a substantial academic literature. Yet, within this body of research, multi-level venue shopping has stirred relatively little attention and the cognitive dimension of actors' Europeanisation has remained largely untouched. This research project addresses these shortcomings by focusing on these two particular aspects. It explores the Europeanisation of domestic interest groups, understood as both the degree to which business organisations and labour unions deploy their activities at the level of the European Union (i.e. 'strategic Europeanisation') and the causal effects of European integration on interest organisations' shift of perception (i.e. 'cognitive Europeanisation'). This dual perspective is applied to the study of German, French, and Luxembourgish actors' behaviours in the case of the Blue Card Directive policy-making process on the conditions of entry and residence of third-country nationals for economic purposes.

In order to examine the multi-faceted nature of interest group multi-level mobilisation and the evolution of their cognitive representations in relation to European policy developments, this dissertation relies on two distinct qualitative research methods. First, a multivariate approach based on data gathered in the field is employed. Three types of variables are utilised to structure the analysis, namely actors' characteristics, the issue area, and domestic institutional features. The ways in which these different explanatory factors intersect provide original findings on the Europeanisation patterns of economic stakeholders. The second method rests on counterfactual scenarios and subsequent alternative non-EU-related explanatory factors. This thought experiment, which imagines what would have happened in the absence of EU engagement in legal immigration policy, and particularly highly skilled immigration policy, has the merit of isolating the effects of 'Europe' on the domestic level and, as such, of avoiding the methodological risk of attributing all observed policy changes to the European Union.

Overall, results on 'strategic Europeanisation' reveal a high inclination of German economic non-state actors to resort to multi-level lobbying in the Blue Card Directive policy-making process and a conversely low propensity of their French counterparts to activate the supranational arena. Luxembourgish stakeholders show very little drive to activate their EU-level lobbying channels on the subject of highly skilled immigration policy. More specific

findings point to the crucial importance of financial resources (i.e. staff size) and actors' domestic embeddedness when deciding whether to make use of Europe, although in contrasted ways. As far as 'cognitive Europeanisation' is concerned, the study shows that the European Union did not shape actors' shift of perception on labour immigration across the three countries under examination. Alternative explanations related to domestic labour market drivers and global policy diffusion appear to hold promise for explaining the reasons underlying these cognitive changes. As part of a broader picture, these additional elements contribute to the mapping exercise of trying to circumscribe the policy influence of the European Union.

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## List of abbreviations

<b>ABBL</b>	Luxembourg Bankers' Association ( <i>Association des Banques et Banquiers, Luxembourg</i> )
<b>APCMA</b>	Permanent Assembly of Chambers of Trades and Crafts ( <i>Assemblée Permanente des Chambres de Métiers et de l'Artisanat</i> )
<b>ASTI</b>	Support Association for Immigrant Workers ( <i>Association de Soutien aux Travailleurs Immigrés</i> )
<b>BAVC</b>	Federal Chemicals Employers Association ( <i>Bundesarbeitgeberverband Chemie e.V.</i> )
<b>BDA</b>	German Confederation of Employers' Associations ( <i>Bundesvereinigung der Deutschen Arbeitgeberverbände</i> )
<b>BDI</b>	Federation of German Industries ( <i>Bundesverband der Deutschen Industrie</i> )
<b>BITKOM</b>	Federal Association for Information Technology, Telecommunications and New Media ( <i>Bundesverband Informationswirtschaft, Telekommunikation und neue Medien</i> )
<b>BMAS</b>	Federal Ministry of Labour and Social Affairs ( <i>Bundesministerium für Arbeit und Soziales</i> )
<b>BMI</b>	Federal Ministry of the Interior ( <i>Bundesministerium für Inneres</i> )
<b>BMI AV</b>	Federation of Miners and Metalworkers ( <i>Berg und Metallindustriearbeiter-Verband</i> )
<b>BMWi</b>	Federal Ministry for Economic Affairs and Energy ( <i>Bundesministerium für Wirtschaft und Technologie</i> )
<b>BNL</b>	National Library of Luxembourg ( <i>Bibliothèque Nationale de Luxembourg</i> )
<b>CDSEI</b>	Social Dialogue Committee on European and International Issues ( <i>Comité du dialogue social pour les questions européennes et internationales</i> )
<b>CDU/CSU</b>	Political alliance of the Christian Democratic Union of Germany and the Christian Social Union in Bavaria ( <i>Christlich Demokratische Union Deutschlands/ Christlich-Soziale Union in Bayern</i> )
<b>CeBIT</b>	Digital Trade Fair ( <i>Centrum für Büroautomation, Informationstechnologie und Telekommunikation</i> )
<b>CES</b>	Economic and Social Council ( <i>Conseil économique et social</i> )
<b>CFDT</b>	French Democratic Confederation of Labour ( <i>Confédération française démocratique du travail</i> )
<b>CFE-CGC</b>	French Confederation of Management – General Confederation of Executives ( <i>Confédération française de l'encadrement - Confédération générale des cadres</i> )
<b>CFTC</b>	French Confederation of Christian Workers ( <i>Confédération française des travailleurs chrétiens</i> )
<b>CGPME</b>	Confederation of Small and Medium Enterprises ( <i>Confédération générale du patronat des petites et moyennes entreprises</i> )
<b>CGT</b>	General Confederation of Labour ( <i>Confédération générale du travail</i> )

<b>CLAE</b>	Liaison Committee of Foreigners' Associations ( <i>Comité de liaison des associations d'étrangers</i> )
<b>DA</b>	Confederation of Danish Employers ( <i>Dansk Arbejdsgiverforening</i> )
<b>DGB</b>	German Confederation of Trade Unions ( <i>Deutscher Gewerkschaftsbund Bundesvorstand</i> )
<b>DIHK</b>	Association of German Chambers of Commerce and Industry ( <i>Deutscher Industrie- und Handelskammertag</i> )
<b>EESC</b>	European Economic and Social Committee
<b>EP</b>	European Parliament
<b>EPC</b>	European Policy Centre
<b>EPP Group</b>	European People's Party group
<b>ETUC</b>	European Trade Union Confederation
<b>EU</b>	European Union
<b>FAS</b>	Social Action Fund for Algerian Muslim Workers in Metropolitan France and their Families ( <i>Fonds d'Action sociale pour les travailleurs musulmans d'Algérie en métropole et pour leur famille</i> )
<b>FASILD</b>	Fund for Action and Support for Integration and the Fight Against Discrimination ( <i>Fonds d'action et de soutien pour l'intégration et la lutte contre les discriminations</i> )
<b>FEDIL</b>	Business Federation Luxembourg ( <i>Fédération des industriels luxembourgeois</i> )
<b>FFB</b>	French Building Federation ( <i>Fédération française du bâtiment</i> )
<b>FO</b>	General Confederation of Labour – Workers' Power ( <i>Confédération générale du travail – Force ouvrière</i> )
<b>FRG</b>	Federal Republic of Germany
<b>FSU</b>	Unitary Union Federation ( <i>Fédération Syndicale Unitaire</i> )
<b>Gesamtmetall</b>	Federation of German Employers' Associations in the Metal and Electrical Engineering Industries ( <i>Gesamtverband der metallindustriellen Arbeitgeberverbände e.V.</i> )
<b>GG</b>	Basic Law for the Federal Republic of Germany ( <i>Grundgesetz für die Bundesrepublik Deutschland</i> )
<b>GGO</b>	Joint Rules of Procedure of the German Federal Ministries ( <i>Gemeinsame Geschäftsordnung der Bundesministerien</i> )
<b>GO</b>	Rules of Procedure of the German Bundestag ( <i>Geschäftsordnung des Deutschen Bundestages</i> )
<b>HDB</b>	German Construction Industry Federation ( <i>Hauptverband der Deutschen Bauindustrie</i> )
<b>ICT</b>	Information and communications technology
<b>IG BAU</b>	Trade Union for Building-Agriculture-Environment ( <i>Industriegewerkschaft Bauen-Agrar-Umwelt</i> )
<b>IG Metall</b>	Metalworkers' Labour Union ( <i>Industriegewerkschaft Metall</i> )
<b>IGSS</b>	General Social Security Inspectorate ( <i>Inspection générale de la sécurité sociale</i> )

<b>ILO</b>	International Labour Organisation
<b>IOM</b>	International Organisation for Migration
<b>IV</b>	Federation of Austrian Industries ( <i>Industriellenvereinigung</i> )
<b>LCGB</b>	Luxembourg Christian Trade Union Confederation ( <i>Lëtzebuurger Chrëschtliche Gewerkschafts-Bond</i> )
<b>LIBE Committee</b>	Committee on Civil Liberties, Justice and Home Affairs
<b>MEDEF</b>	French Business Confederation (Mouvement des entreprises de France)
<b>MEPs</b>	Members of the European Parliament
<b>NGO</b>	Non-Governmental Organisation
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OGBL</b>	General Confederation of Labour of Luxembourg (Confédération générale du travail de Luxembourg)
<b>PES Group</b>	Party of European Socialists
<b>RWR Card</b>	'Red-White-Red' Card
<b>SMEs</b>	Small and medium enterprises
<b>SMS Group</b>	Plant supplier to the metallurgical industry for steel, aluminium, copper and metals
<b>SPD</b>	Social Democratic Party of Germany ( <i>Sozialdemokratische Partei Deutschlands</i> )
<b>SUD</b>	Solidary Unitary Democratic (Solidaires Unitaires Démocratiques)
<b>STATEC</b>	National Institute of Statistics and Economic Studies of the Grand Duchy of Luxembourg ( <i>Institut national de la statistique et des études économiques du Grand-Duché de Luxembourg</i> )
<b>UEAPME</b>	European Association of Craft, Small and Medium-sized Enterprises' ( <i>Union européenne de l'artisanat et des petites et moyennes entreprises</i> )
<b>UEL</b>	Union of Luxembourgish Companies ( <i>Union des entreprises luxembourgeoises</i> )
<b>UIMM</b>	French Metallurgy Federation ( <i>Union des industries et métiers de la métallurgie</i> )
<b>UIT</b>	Textile Industries Union ( <i>Union des industries textiles</i> )
<b>UNSA</b>	National Union of Autonomous Trade Unions (Union nationale des syndicats autonomes)
<b>UPA</b>	Professional Craft Union ( <i>Union professionnelle de l'artisanat</i> )
<b>VDMA</b>	German Machine Tool Builders' Association ( <i>Verband Deutscher Maschinen- und Anlagenbau e.V.</i> )
<b>UEL</b>	Union of Luxembourg Entreprises ( <i>Union des entreprises luxembourgeoises</i> )
<b>UNICE</b>	Union of Industrial and Employers' Confederations of Europe
<b>URL</b>	Uniform Resource Locator
<b>U.S.</b>	United States of America
<b>WKÖ</b>	Austrian Federal Economic Chambers (Wirtschaftskammer Österreich)
<b>ZDH</b>	German Confederation of Skilled Crafts (Zentralverband des Deutschen Handwerks e.V.)

# 1 Introduction

Understanding why domestic actors behave the way they do is key in order to comprehend how advanced democracies operate. Yet, the study of interest group politics holds a rather minor place in the political science academic corpus.<sup>1</sup> As explained by Jan Beyers and colleagues, this situation does not derive from less sophistication on interest group research but 'is largely an artefact of size: fewer scholars work in the group area than in party politics or policy studies' (Beyers *et al.* 2008, p.1103).

Political scientists working on EU politics should be particularly interested in this issue since the European multi-level governance<sup>2</sup> system forms a unique playing field for interest organisations. For researchers examining the turn to Europe<sup>3</sup> of interest groups, the multiple access points provided by the European political system may constitute valuable additional political opportunity structures. For those looking at the impact of European integration on national interest groups, the diverse characteristics of national political systems and the degree to which non-governmental actors are associated with the policy-making process offer a fascinating kaleidoscope of situations to explore.

Notwithstanding the important role that domestic interest groups occasionally play in the policy-making process both at home and in Brussels, very few publications have considered the Europeanisation of actors. By contrast, the Europeanisation of policies has stirred considerable attention (see for example Ette and Faist 2007). What is more, the literature on actors' Europeanisation has remained divided between a more Anglo-Saxon type of research dealing with the expansion of lobbying activities to the supranational level and a more 'sociological' understanding of Europeanisation emphasising actors' motivations and their ability to redefine themselves by interacting with the European Union<sup>4</sup>. This latter stream of research has remained rather confined to this day. Even more problematic is the fact that

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<sup>1</sup> To my knowledge, the first scientific journal dedicated to the politics of interests, 'Interest Groups & Advocacy', was launched in 2012.

<sup>2</sup> 'Multi-level governance [...] describes the dispersion of authoritative decision making across multiple territorial levels' (Hooghe and Marks 2001, p.xi).

<sup>3</sup> I use the terms 'Europe' and 'European Union' interchangeably in this thesis.

<sup>4</sup> I use the term 'European Union' (or its abbreviation 'EU') throughout the thesis, even when referring to a time prior to 1993, when the actual EU was created. Additionally, I use the terms 'European Union' and 'Europe' interchangeably.

dialogue between these two bodies of literature is quasi inexistent. The fact that each academic community tends to work in isolation from one another prevents cross-fertilisation from taking place. By way of illustration, cross-references are rare.

In order to address this problem, this qualitative research brings the two understandings closer together by combining both understandings of Europeanisation into one study. In so doing, I aim to encourage intellectual exchange between these two strands of the literature. Enhanced communication, I believe, could trigger fruitful cooperation and get contributions on actors' Europeanisation out of their relative academic isolation.

## **1.1 Research objectives and conceptual clarification**

### **1.1.1 Research questions**

The thesis is driven by one overarching question, namely: What patterns did the Europeanisation of domestic interest groups display in the case of the Blue Card Directive policy-making process?

From this central question, two sub-questions are asked: one focuses on the 'strategic' understanding of actors' Europeanisation, while the other centres on the 'cognitive' definition of the term (see chapter 3 for a detailed explanation of this dual research strategy). In the first case, Europeanisation is conceived as the propensity of domestic actors to include supranational venues in their lobbying scheme. The second understanding of Europeanisation focuses on causal effects of European referents on domestic actors' perception as expressed in relation to national debates on immigration.

- 1) What forms did the activation of the EU level by domestic economic interest groups take in the course of the Blue Card policy-making process? How can variations of interest groups' orientation towards Europe be explained?
- 2) Did European referents on highly skilled immigration have a discernible impact on domestic interest groups' perception in relation to national debates on labour immigration policy? If so, what forms did it take? If not, what alternative factors can explain actors' shift of perception?

The first sub-research question looks at Europeanisation dynamics taking root at the domestic level and expanding to the EU level. This conception fits nicely with the idea of ‘venue shopping’. Applied to actors’ Europeanisation, it allows to highlight strategies implemented by national organised interests to project their lobbying activities at the supranational (e.g. Callanan 2011; Princen and Kerremans 2008; Tatham 2010). What I wish to explain here (the dependent variable) is the variation of actors’ activation of the supranational level. To do so, I test a series of variables (i.e. independent variables) related to resources, group type, policy issue and national interest intermediation systems in which actors are embedded.

The second sub-research question leans towards a more sociological<sup>5</sup> understanding of actors’ Europeanisation. This viewpoint moves away from a strategic understanding of actors’ behaviour aiming at influencing policy-making. Rather, it focuses on the effects of EU values and ideas on the mindset of national interest organisations. What we are talking about is how Europe triggers cognitive dynamics in which stakeholders shape their perceptions. The potential causal effects are contextualised in relation to national debates on labour immigration. Actors’ perception (dependent variable) presumably changes as a result of the diffusion of EU referents (independent variable). It is worth noting that this perspective on Europeanisation departs from a ‘classic’ top-down approach based on the ‘goodness of fit’ argument (see chapter 2 for a presentation of this approach), as it explains change in the absence of exogenous pressure from EU institutions.

### 1.1.2 Definition of ‘interest group’

After having explained my dual understanding of the concept of ‘Europeanisation’, I now wish to clarify the definition of an ‘interest group’. This is all the more necessary given the abundance of terms used in academic works on interest group politics, ranging from ‘interest organisations’, to ‘interest associations’, not to omit ‘pressure groups’ and ‘non-governmental organisations’. Browsing the literature, one sees a separation between publications dealing with economic interest groups on one side and works on ‘social movements’ on the other. The divide between studies on interest groups that represent economic stakes and those on groups

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<sup>5</sup> The term ‘sociological’ is understood here as related to the study of ideas, values, and perceptions. Unlike explanations of actors’ behaviours based on mere cost/benefit calculations, the ‘sociological’ outlook concentrates on their ability to conform to social norms and understandings.

that stand for civil society interests has remained until today despite calls from certain scholars to adopt a broader definition that encompasses both types of interest organisations (e.g. McCauley 2011; Saurugger 2013; see also Beyers 2008).

Jan Beyers, Rainer Eising and William Maloney suggest three components to define an actor as an interest group: organisation, political interests, and informality. Interest groups rely on some kind of organisation. '*Organisation* relates to the nature of the group and excludes broad movements and waves of public opinion [...]' (Beyers *et al.* 2008, p. 1106, italics in original). The second characteristic for an actor to qualify as 'interest group' is *political interest* (also called *policy advocacy*). In other words, interest groups must seek to influence decision-making and to leave their mark on policy results. The third and last feature, *informality*, hints to the fact that interest groups are private entities 'that do not seek public office or compete in elections, but pursue their goals through frequent informal interactions with politicians and bureaucrats' (ibid., pp. 1106-1107).

I use the term 'interest groups' in the thesis to refer to actors that rely on some kind of organisation and have a political interest. I consider both employers' organisations and trade unions, which clearly fulfil these first two criteria.<sup>6</sup> However, the word 'informality' does not apply well to both these actors, or is at least incomplete. In fact, participation of these actors in policy-making may take place within both informal and formal (or institutionalised) venues. I therefore broaden this third criterion to include both formal and informal interactions with governmental actors and do not utilise the word 'informality'.

## 1.2 Case selection

'All research involves defining the population for which the study is to be conducted and selecting a sample from this population' (Przeworski and Teune 1970, p.31). This section provides justifications for the choice of countries, types of domestic actors, and policy-issue.

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<sup>6</sup> I use the terms 'interest group' and 'interest organisation' interchangeably in this thesis. The two are seen as synonyms, only that 'interest organisation' stresses the fact that these actors rest on some kind of organisational structure (consequently, a broad movement promoting healthy eating in schools could not qualify as an 'interest group' because it does not grant a formal membership status to its participants and lacks a permanent administrative body).



### 1.2.1 Rationale for the choice of countries

The present study focuses on Germany, France and Luxembourg. This choice of countries was determined with two major concerns in mind: ensure variation of findings and select a relevant sample to allow for comparative research.

To begin, I sought to establish variation of the two country-related factors of this study, namely the nature of the domestic interest intermediation system and the characteristics of national debates on labour immigration. The focus on these three countries provides such a diversity. Germany has a distinct profile. Its corporatist mode is characterised by a culture of compromise, based on regular cooperation between the state and societal actors. In this decision-making culture, interest organisations are regularly consulted and are viewed as legitimate actors in the policy-making process (Streeck 1999; Schmidt 2006). This extensive participation of interest groups in policy-making makes it a particularly interesting case to investigate, as German actors are likely to make use of 'Europe' and be affected by it (see the two conceptions of Europeanisation tackled in this thesis). On the contrary, France displays a statist-system characterised by the predominance of the state and the limited and largely informal access (for the 'happy few') to a centralised policy-making process (Saurugger 2003; Schmidt 2006; Klüver 2010). Luxembourg lays somewhere between the two, since tripartite consultations between the government, business representatives and labour unions were still in place but faced difficult times. Considering the pro-European doctrine of the Grand Duchy, Luxembourgish interest groups can be considered potentially very EU-driven. Interest organisations of small Member States are likely to be more inclined to utilise the supranational level as they benefit extensively from strong inter-state cooperation and common EU policies. What is more, Luxembourgish actors should be particularly receptive to EU ideas and values. As such, the European Union (or supranational policy developments) is likely to influence their cognitive frames. If so, Luxembourg is a fertile ground for research on the influence of Europe on values and mindset of national actors.

This country selection also has the merit of holding other factors relatively constant. Hence, this thesis utilises the most similar systems design, based on the idea that '[...] systems as similar as possible with respect to as many features as possible constitute the optimal samples for comparative inquiry' (Przeworski and Teune 1970, p.32). The three countries under

examination are good examples because they share various characteristics. They are democracies, founding members of the European Union enjoying a rather high degree of legitimacy (either due to their size or to their role as EU advocates and policy-making facilitators), and advanced economies with a high level of technical and knowledge-based capacities. Their outlook on issues related to economic immigration policy should be quite similar. That is, an ageing society, the decrease of the workforce, and difficulty in finding profiles in specific sectors of the economy should be common concerns. Hence, choosing Germany, France, and Luxembourg enables us to keep a series of similar traits constant, while lowering the number of independent variables. In fact, this design allows to put aside common characteristics shared by these three countries, which are irrelevant to explain variations of actors' Europeanisation. On these grounds, '[i]t is anticipated that if some important differences are found among these otherwise similar countries, then the number of factors attributable to these differences will be sufficiently small to warrant explanation in terms of those differences alone' (ibid.).

### 1.2.2 Rationale for the choice of domestic actors

As hinted above, my thesis focuses on two types of actors, namely employers' organisations and labour unions. The rationale for selecting the latter two had much to do with the policy field under study, which arguably stands closer to labour market concerns than to actual immigration issues. One can assume that employer organisations and labour unions are particularly interested in labour-market issues, including highly skilled immigration policy (albeit often holding different positions). In contrast, NGOs tend to mobilise more on topics such as asylum policy and illegal immigration.

Beside issue-related explanations, employers' organisations and labour unions are also interesting to take into consideration in the sense that they often display contrasting preferences on a topic such as labour migration. High levels of variation in actors' positions could potentially provide interesting research findings on both groups' upward move to Europe and their receptivity vis-à-vis EU ideas diffused across Member States.

### 1.2.3 Rationale for the choice of policy

The choice to focus on the Blue Card Directive policy-making process derives from my desire to explore an area that is likely to capture the interest of non-governmental economic actors. The Blue Card permit seeks to facilitate the entry and stay of highly skilled third-country nationals on EU territory and falls within the wider ambition of the Lisbon agenda to make Europe the most competitive and thriving knowledge economy in the world (Council of the European Union 2000). As such, it is tightly linked to labour-market issues, including difficulty in finding adequate profiles in specific sectors of national economies, deciding who is allowed to access the labour market and who is not, or ensuring competitiveness in ageing societies. Hence, the making of the Blue Card Directive appears to be a relevant research topic in order to examine the multi-level lobbying strategies of domestic economic interests. In addition, the fact that this policy process initiated a new start for European integration in the labour immigration area (following the aborted 2001 Directive proposal, see chapter 4) may have repercussions on the ability of the EU to influence the conceptions (or ‘cognitive frames’) of national economic interests groups.

## 1.3 Contribution to research

Two particular contributions of this study on interest group politics to the academic literature, empirical and methodological, deserve to be underscored.

Empirically, it is the first exhaustive analysis on the Blue Card Directive policy-making process. Beside contributing to the much neglected literature on actors’ Europeanisation, it provides new material on the propensity of different national interest organisations to make use of ‘Europe’ and refines our understanding on the ability of European ideas to influence the mindset of domestic economic interest groups. Most contributions I came across on interest group Europeanisation focused either on the extension of interest groups’ activities to the European level (Beyers and Kerremans 2007; McCauley 2011; Sallai 2013) or on the impact of European integration on national actors (e.g. Schmidt 1996; Lehmkuhl 2000; Saurugger 2007a). Combining the two enables us to bring together two strands of the literature that rarely engage in dialogue with each other. Additionally, the exploration of the ‘strategic’ and ‘cognitive’ dimensions of Europeanisation dynamics arguably allows to focus on behaviours of individual actors without losing sight of the broader backdrop in which they evolve.

In contrast to most past contributions on the Europeanisation of interest groups, the research adopts a qualitative research design. The latter opens the way for an in-depth investigation of Europeanisation patterns in a multi-level environment. What is more, it allows for a thorough analysis of how different explanatory factors interplay and produce certain patterns. It is important to note at this point that unlike most quantitative works, the research does not adopt a language of falsifiable testing. Instead, hypotheses are used primarily to guide the empirical work and to structure the analysis.

## **1.4 Outline of the thesis**

The thesis inquires into variations of actors' Europeanisation understood as 1) how and to what degree domestic interest groups include the European Union in their lobbying strategies and 2) the causal effects of EU developments in the area of highly skilled immigration policy on the mental frames of national interest organisations. The study is divided into seven chapters (including the introduction).

Chapter 2 provides the conceptual framework of the thesis. The first section briefly recalls the context in which the notion of Europeanisation emerged on the academic agenda. Section two surveys the different understandings of Europeanisation found in the literature with a critical eye. The chapter then goes on to highlight the evolutions of the actor-centred approach on Europeanisation. It continues with a thorough account of applications of the concept to interest groups, situating the thesis in this wider research frame. The chapter then focuses on research gaps that the present contribution intends to address. It ends with the presentation of hypotheses guiding this research.

Chapter 3 presents the methodology used to carry out the present research endeavour. The first section sets forth the research questions and subsequently explains the operationalisation of independent variables. The qualitative research methods – hypothesis testing and counterfactual reasoning – are then described. The third section focuses on data collection, going over the different types of sources used. Particular emphasis is put on interviews, given their importance in this thesis. The chapter concludes with a section on data analysis.

Chapter 4 provides the historical background of the Blue Card Directive. It begins with an account of the emergence of legal immigration on the EU political agenda and further

describes the circumstances surrounding the birth of the Blue Card Directive. Concluding remarks stress the underlying logic behind the move from a comprehensive approach of legal immigration to a paradigm based on categories of migrants.

Chapters 5 and 6 constitute the empirical core of this study. Following a country-based outline, each focuses on one understanding of Europeanisation and therefore on one research question (since each question relates to one definition of the concept). Chapter 5 covers Europeanisation understood as the activation of the EU level by domestic interest groups. Each section focuses on one country but all share a similar structure. As a first step, each section discusses the extent to which domestic interest groups targeted the supranational level during negotiations on the EU Blue Card. The section then goes on to explain variations of Europeanisation dynamics by testing a series of variables against data collected in the field. The conclusion recapitulates the findings and highlights the drivers behind this first understanding of actors' Europeanisation. Chapter 6 focuses on the second definition of Europeanisation, that is the causal effects of Europe on the cognitive frames of domestic actors. Each section, which deals with one country, first describes the change of paradigm on legal immigration that took place at the national level. This contextualisation is followed by a review of the positioning of domestic interest groups on this issue. Subsequently, discussion centres on the degree to which the cognitive shift experienced by interest groups may be attributed to European developments in the area of highly skilled immigration. Finally, the chapter evaluates results and suggests alternative drivers of actors' paradigm shift.

The concluding chapter begins with a summary of the key findings of the thesis. It subsequently highlights research limitations linked to the qualitative research design prior to specifying the particular contributions of the research project. The final section suggests research avenues for future academic contributions on the Europeanisation of actors.

## **2 The Europeanisation framework and its application to interest groups**

In order to set the scene, this chapter goes over the different facets and uses of the so-called ‘Europeanisation literature’, underlining its strengths and limits. The first section briefly recalls the contexts in which the notion emerged on the academic agenda. In a second phase, a critical review of the various understandings of the term is carried out in order to understand where this study fits within the wider academic literature. Following these preliminary considerations, the chapter explores the different applications of the concept of Europeanisation to interest groups. Consistent with scholars, who stress the need for conceptual clarification (see Olsen 2002; Featherstone 2003; Bulmer and Lequesne 2005), the aim is ultimately to clarify the definitions of ‘Europeanisation’ used in the present thesis. The subsequent step consists in pinpointing the research gaps and highlighting the contribution of the research. Based on preliminary research findings and a priori reflection, the final section sets out to present a series of hypotheses, which constitute the backbone of this thesis.

### **2.1 The evolution of European integration research**

Impregnated by the field of international relations, European studies have initially sought to understand the nature of the European political organisation and cooperation between States at the European supranational level. The main approaches – neo-functionalism (Haas 1958; Lindberg 1963) and liberal intergovernmentalism (Moravcsik 1994, 1998) – both aimed to explain the creation and continuity of the European polity, as well as to investigate political developments occurring at the supranational level. Although national policy-making did play a role in decision-making at the EU level, the domestic dimension was largely addressed outside the scope of European studies.

According to Simon Hix and Klaus H. Goetz, the separate development of research on national political systems and European integration studies may be explained in three ways. First, whereas comparative politics scholars explored domestic arenas, international relations researchers focused on international systems and regional organisation. Second, the European endeavour stirred limited interest among the comparative politics community, which, for a large part, perceived European integration as either a ‘normative project’ or, more generally,

as bringing little added value to the field of political science in terms of generalisation. Lastly, integrating the European Union within comparative politics studies brought little additional insight at times when links between changes observed at the domestic level and the European supranational dimension were largely absent (Hix and Goetz 2000, p.1).

Research agenda of EU studies evolved in the 1990s as the influence of the European Union increased. With the completion of the Single Market, as well as more market-driven dynamics (see Bulmer and Radaelli 2005; Bulmer and Lequesne 2013), the interest of the academic community for EU-related topics grew substantially beyond European studies as such. Hence, comparative politics researchers turned to the study of the EU. As scholars learned about Europe, they sought to apply their concepts to the supranational level (e.g. Schmitter 1974; Schmitter and Lehmbruch 1979) while, simultaneously, including the European dimension within their work on domestic aspects (e.g. Meny *et al.* 1996).

The reconciliation of European integration works and comparative politics studies was most visible with the ‘institutional turn’ in political science. The momentum gained by the ‘new institutionalisms’ (see Hall and Taylor 1996) in the Anglo-Saxon literature made a mark on the Europeanisation research agenda. Applied to the study of policies (e.g. Muller 1997; Héritier *et al.* 2001; Knill and Lehmkuhl 2002; Radaelli 2003), politics (Hix and Goetz 2001) and polities (Schmidt 2004), Europeanisation studies mainly dealt with the consequences of European integration on Member States. Accordingly, European integration became the independent variable, the dependent variable being the domestic level. Hence, one witnessed a radical shift of research agenda in comparison with past EU studies making use of international relations approaches. Rather than seeking to understand and conceptualise the ‘nature of the beast’ (Puchala 1972), to explore whether the EU leaned more towards supra-nationality or inter-governmentality, the aim was to ‘bring [...] domestic politics back into our understanding of European institutions’ (Radaelli 2004). By the mid-1990s, the Europeanisation framework had become a ‘fashionable term’ (Featherstone 2003, p.3). To quote Johan P. Olsen’s well-known article in which he attempts to map out the different mechanisms of ‘Europeanisation’, ‘Europeanization is an academic growth industry’ (Olsen 2002, p.921).

## 2.2 The main understandings of the notion of ‘Europeanisation’

Fashionable, the European concept has nonetheless been contested. Lively discussions on its substantive meaning have taken place (e.g. Knill and Lehmkuhl 1999; Börzel and Risse 2000; Radaelli 2000b; Olsen 2002; Featherstone and Radaelli 2003), but no common understanding of the process involved has come to the surface. Sceptical readers have gone as far as to question the effectiveness of the concept (Kassim 2000). The fact that most scholars have utilised this notion as a loose framework did not help to clarify the term. As recalled by Claudio Radaelli, Europeanisation is not a theory, nor a solution. Instead, it serves as a way of organising notions, which are already employed in political science (Radaelli 2004). In this context, the risk of concept misformation, conceptual stretching and degreeism (Radaelli 2000b) is high.

What does ‘Europeanisation’ precisely refer to? The numerous uses of the term have been discussed at length in the literature (see Olsen 2002; Featherstone and Radaelli 2003; Graziano and Vink 2007; Harmsen and Paris 2015). The aim here is rather to review the main understandings of the term by addressing a major difficulty, namely the differentiation between the dependent and independent variables (as noted by Bulmer and Radaelli 2005; see also Saurugger 2005). Do studies under this banner explore the effects of European integration on national structures of Member States, or do they allude to ‘the emergence and development at the European level of distinct structures of governance’ (Risse *et al.* 2001, p.3). Although most scholars agree that European integration and Europeanisation should be kept separate for the sake of clarity, the link between the two has been the subject of extensive debates.

Considering the preliminary development of the Europeanisation research field, Robert Ladrech is among the first scholars to have defined the term. His understanding of Europeanisation, defined as an ‘incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making’ (Ladrech 1994, p.69) – has gained widespread currency. Here, the author seeks to explain changes at the domestic level (dependent variable) by taking EU-level evolutions into account. Inherent to this ‘top-down’ conception is the idea that actors redefine their interests and behaviour according to European imperatives. On similar grounds, Europeanisation has been defined in subsequent works as ‘a



process by which domestic policy areas become increasingly subject to European policy-making' (Börzel 1999, p.574). Similarly, Adrienne Héritier and colleagues looked at 'the process of influence deriving from European decisions and impacting member states' policies and political and administrative structures' (Héritier *et al.* 2001, p.3). Also consistent with Ladrech's definition, Simon Hix and Klaus H. Goetz referred to 'the impact of European integration on government and politics in domestic political systems' (Hix and Goetz 2000, p.2). Europeanisation and European integration should be tackled separately at the analytical level. A number of scholars share this view (e.g. Radaelli 2000b<sup>7</sup>; Saurugger and Radaelli 2008; Bulmer and Lequesne 2005). Yet, separating the two has proved difficult at empirical level, as both are intertwined in the real world.

Finding the right balance between conceptual clarity and empirical accuracy is no easy task. The definition of Europeanisation developed by Risse, Cowles, and Caporaso illustrates this point particularly well. In their own terms, the concept of Europeanisation refers to 'the emergence and development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem-solving that formalize interactions among the actors, and of policy networks specializing in the creation of authoritative European rules' (Risse *et al.* 2001, p 3). Although the objective of these authors – to explore the impact of Europeanisation on the domestic structures of member states – places the project back in resonance with the Europeanisation literature, the ambiguity between Europeanisation and European integration remains (Radaelli and Pasquier 2007). Put differently, this definition does not delineate Europeanisation as a specific research field. James Caporaso himself acknowledged several years later the problem of defining Europeanisation as the formation of an EU-level 'structure of governance' and simultaneously seeking to study Europeanisation in terms of its impact at the domestic level (Caporaso 2007). The fact that this definition is very similar to the one of European integration did not go unnoticed (see for example, Bulmer and Lequesne 2005; Radaelli and Pasquier 2007; Saurugger and Surel 2006). On the other hand, one could posit that this understanding of Europeanisation is more in line with empirical work and helps to operationalise the concept (see Saurugger 2005).

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<sup>7</sup> '[...] one should distinguish between the process leading to the formation of a certain policy, and the reverberation of that policy in the national arenas' (Radaelli 2000b, p.6).

Drawing from Ladrech's conception of Europeanisation, these definitions explain change of domestic political systems by considering causes located at the EU level. In order to demonstrate change induced by EU pressures (or 'top-down' Europeanisation) scholars first identify the explanatory factors at the EU level and subsequently focus on the national arena where change may have taken place.

The conception of domestic change is often based on the 'goodness of fit' argument. Developed by Thomas Risse and colleagues (Risse *et al.* 2001), this reasoning is based on the idea that the degree of adaptational pressure exerted by Europeanisation varies according to the degree of 'fit' or 'misfit' between European institutions and domestic institutions: the lower the compatibility (fit) between the institutions at the two levels, the higher the adaptational pressures. Member States have a range of adaptation mechanisms at their disposal, ranging from an absence of change (or 'inertia') to a paradigmatic shift (called 'transformation'<sup>8</sup>) (see Börzel 1999; Héritier and Knill 2000; Risse *et al.* 2001). No adaptation is expected in cases where national institutions are in line with the European model. Whether a country responds to EU stimuli depends on different 'intervening factors': 'multiple veto points in the domestic structure, facilitating formal institutions, a country's organizational and policymaking cultures, the differential empowerment of domestic actors, and learning' (Risse *et al.* 2001, p.2).

In the 'misfit' model, actors may have the capacity to block change but are not in the position to trigger change in the absence of a misfit between the EU and domestic levels. As such, actors remain secondary in comparison to the institutional dimension. By contrast, authors adopting a sociological stance, argue that actors have the capacity to choose and learn outside of EU-induced pressures (see Jacquot and Woll 2004, p.7). The 'goodness of fit' argument may be further criticised. Some authors demonstrated that it does not systematically correspond to empirical observation. For instance, Christoph Knill and Dirk Lehmkuhl show that a high degree of 'fit' does not necessarily prevent the influence of the European Union on Member States. In fact, '[t]he French case demonstrates that even in cases of high compatibility, Europe-induced changes in domestic opportunity structures might lead to national reforms which to some extent diverge from EU regulatory objectives (Knill and Lehmkuhl 2002, pp. 261-262). In addition, the 'misfit' model conveys an exclusively top-down approach, which rests on a

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<sup>8</sup> This degree of change is similar to Peter Hall's 'third order change', which marks a radical change (Hall 1993).

problematic linear, chain-of-command view of policy circulation from the EU to the national level (see Palier and Surel 2007). Conceptualising Europeanisation as the effects of the European Union (the independent variable) on the domestic (dependent variable) seems too simplistic to understand how Europe influences Member States (Bulmer and Radaelli 2005; see also Olsen 2002). Finally, informal processes, or occurring in the absence of pressures are not taken into consideration (Bruno *et al.* 2007).

### **2.3 Moving from an institutionalist to an actor-centred approach**

In line with the academic corpus on Europeanisation, the present study considers the effects of European integration. However, it moves away from the mainstream Europeanisation literature, which centres its attention on structural elements or institutional pressures, leaving aside how change is effectively induced by these mechanisms.

In an interesting way, Claudio M. Radaelli turned his back on the more restrictive understandings of Europeanisation presented above. The author identifies Europeanisation as including ‘processes of (a) construction (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies’ (Radaelli 2000b, p.4; see also Radaelli 2003, p.30; see also Bulmer and Radaelli 2005). This definition of Europeanisation is broader than the model based on the ‘misfit’ argument, insofar as it includes both ‘formal and informal rules’. This understanding includes both vertical and horizontal dynamics. As explained by Radaelli, ‘[v]ertical mechanisms seem to demarcate clearly the EU level (where policy is defined) and the domestic level, where policy has to be metabolized. By contrast, horizontal mechanisms look at Europeanization as a process where there is no pressure to conform to EU policy models’ (Radaelli 2003, p.41). Hence, horizontal dynamics of Europeanisation are disconnected from the idea that adaptational pressures are needed for any kind of change to take place. Instead, this perspective enables us to explore cognitive transformation related to Europe (e.g. Radaelli 2000a) taking place via such mechanisms as indirect pressures, élite socialisation, and learning processes (Irondele 2003). Hence, according to Claudio Radaelli, Europeanisation does not only refer to formal policy rules, but also encompasses less tangible elements, such as beliefs

and values (Bulmer and Radaelli 2005). In this context, Europeanisation is conceptualised as an interactive process, Europeanisation includes the whole public policy cycle and considers possible feedback loops from the national to the European level (Saurugger and Radaelli 2008, p.213). Moreover, scholars are encouraged to define their independent variables (presumably causing change at the national level) more explicitly (Saurugger and Radaelli 2008; Radaelli 2004).

Radaelli's definition has also its limits. Notwithstanding the fact that this conception of Europeanisation brings interesting conceptual expansion and clarification, the suggested empirical approach leans back on previous 'top-down' approaches of the term. More precisely, Claudio Radaelli defines Europeanisation as a two-stage process: the adoption of policies, politics and politics at the EU level (Tanja Börzel uses the notion of 'uploading' to describe this process), and the subsequent incorporation of EU rules into domestic political systems (or 'downloading', Börzel 2002).

To address this shortcoming, Bruno Palier and Yves Surel – in their book *L'Europe en action* – advance the argument according to which Europeanisation refers to: 'all processes of institutional adjustments, strategic and normative induced by European integration' (Palier and Surel 2007, p.39; own translation). This outlook on the notion of 'Europeanisation' has the advantage of encompassing changes occurring in a multi-level setting, both at the domestic and EU levels. Hence, the process of Europeanisation refers to multi-directional dynamics, including both Radaelli's focus on 'downloading' aspects, and 'uploading' forms of Europeanisation. In so doing, Palier and Surel perceive domestic actors as important factors of change, whose role is not limited to mere reaction (Palier and Surel 2007, p.40).

Referring back to Radaelli's definition of Europeanisation, an additional aspect merits attention: the use of the notion of Europeanisation to study adaptation patterns displayed by actors. Although Claudio Radaelli employs the notion of Europeanisation in relation to public policy exclusively, it is worth questioning whether the effects of European integration are also visible regarding actors such as interest groups, economic stakeholders. Bruno Palier and Yves Surel bring this question to the fore, without taking a position (Palier and Surel 2007, p.41). Insightful work has been carried out along this path in recent years. In particular, Sophie Jacquot and Cornelia Woll have given a sociological twist to the study of Europeanisation

(Jacquot and Woll 2003, 2004; Jacquot 2006). Their research has certainly proved inspiring for the present research project, as we shall see in the section below.

## 2.4 ‘Europeanisation’ applied to interest groups

National interest organisations have been associated with Europe since the early years of the European construction. In the 1950s, the neofunctionalist school of thought initiated by Ernst Haas (1958) (and later developed by Haas’ student, Leon Lindberg 1963) attributed a pivotal role to these actors. Business associations and trade unions were seen as the motor of European integration, driving the *spill-over* process as they incrementally transferred their activities and loyalties to the EU level in order to defend their interests more effectively.<sup>9</sup> Yet, the Europeanisation literature has focused on the study of public policies to a large extent.

Until recently, within the academic corpus on the Europeanisation of interest groups, most attention has been devoted to EU-level interest groups and interest intermediation (Greenwood 2003). The question whether an EU interest intermediation system is emerging has stirred much interest since the 1980s. In comparison, research seeking to uncover the influence of European integration process on domestic interest groups is a relative newcomer but has gained primacy over the years.

The present discussion centres on the three main bodies of research on interest group Europeanisation, which draws on contrasting understandings of the term. The first body of research defines Europeanisation as a process through which European integration impacts domestic policy, politics, and polity, or the so-called ‘top-down’ approach. The second body of works focuses on the degree to which interest organisations have ‘europeanised’ their lobbying activities. In other words, they examine the effects of a European multi-level governance system on the strategies and opportunities of interest groups to operate at the EU level. Most authors seem to focus on one or the other, although a few combine the two (e.g. Ladrech 2005; Hedling and Meeuwisse 2015<sup>10</sup>). Lastly, I review the latest developments in the

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<sup>9</sup> To cite Peter Haas, ‘[p]olitical integration is the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states’ (Haas 1958, p.16).

<sup>10</sup> Hedling and Meeuwisse (2015) understand Europeanisation both as the influence of the EU on Swedish civil society organisations active in the welfare sector and as the ways in which these actors make use of Europe. As such, civil society organisations are seen as both objects and subjects of the Europeanisation process.

field of Europeanisation – and arguably the most exciting (Palier and Surel 2007, p.32) – that have taken the form of a sociological turn. This specific research branch applies the notion of ‘Europeanisation’ to the role of actors in social interactions induced by European integration. It mostly expanded within the French academic community.

#### 2.4.1 How does the European Union affect domestic interest groups and interest intermediation systems?

The first set of EU interest group studies draws on the widely used ‘top-down’ approach of Europeanisation, characterised by a focus on the impact of European integration on domestic policy, politics, and polity (in this vein, see Ladrech 1994; Börzel 1999; Hix and Goetz 2000; Risse *et al.* 2001; Knill and Lehmkuhl 2002; Radaelli 2000b, 2003). Said differently, these authors understand Europeanisation as a ‘[c]entral penetration of national systems of governance’ (Olsen 2002, p.923, italics in original). As a result, national and sub-national systems adapt to ‘a European political centre and European-wide norms’ (Olsen 2002, p.924). Along this line of reasoning, scholars seek to uncover the causal mechanisms at work between the EU and domestic modes of interest intermediations, particularly the organisation of interests, their objectives, and their relationships with the state. Authors following this approach have initially tended to establish a clear analytical distinction between the national and European dimensions. Some of them have utilised the ‘degree of fit’ argument in their endeavour to assess the degree of domestic adaptation to the EU (see presentation of the ‘misfit’ argument above).

While the ‘misfit’ argument may be relevant in cases where the EU disposes of a clear policy template, it appears inappropriate to study interactions between national and European modes of interest intermediation. Along these lines, Grote and Lang (2003) explain that assessing to what degree national systems of interest intermediation are similar to European patterns is problematic in the absence of an EU-level interest intermediation scheme. In a similar way, Sabine Saurugger points to the absence of a ‘homogeneous model of European interest intermediation whose impact we could measure at the national level’ (Saurugger 2007a, p.1085). She underscores changes in French non-state actors’ interests and behaviour in policy fields where variation exists between the national and the European arenas, but employs the ‘misfit’ argument with caution. A second drawback of this argument has to do

with its tendency to generate over-simplification. As suggested by Grote and Lang (2003), studying the adaptation of interest groups by considering exclusively the 'goodness of fit' leads to an over-simplification of what is, in reality, a highly complex interrelation of phenomena (Grote and Lang 2003, pp.228-229). This criticism is applicable to the entire Europeanisation literature based on a top-down approach, insofar as it conveys a linear, chain-of-command view of political circulation from the EU to the national level. What is more, the misfit model does not allow us to take informal processes and non-constraining dynamics into consideration (Palier and Surel 2007). Actors themselves are taken into consideration only insofar as they react to adaptational pressure, not as stakeholders capable of triggering change in the absence of pressures (Jacquot and Woll 2003).

Besides utilising the 'misfit' argument, EU interest group scholars have drawn from comparative politics by referring to categories (i.e. pluralism, neo-corporatism, statism<sup>11</sup>) in order to define national interest intermediation systems. However, the usage of categories has created major problems in Europeanisation studies, notably the production of inconclusive findings (Eising 2007a; Saurugger 2013). From the mid-1990s onwards – at the time of the 'governance turn' in EU studies (Kohler-Koch and Rittberger 2006) – a double movement has taken place. On the one hand, this typology shifted from the state to the policy level, more specifically to private-public relations in different policy areas (Saurugger 2013, p.337). On the other hand, some scholars took their distance from strict categorisation, locating their research instead within a broad pluralist framework and adopting a multi-level governance approach (e.g. Fairbrass and Jordan 2001). As the governance perspective enables scholars to move away from state-centred research, it also grants them more leeway vis-à-vis the use of categories.

For one thing, the literature based on categorisation has produced contrasting results, due to conceptual differences and subsequent diverging classification (Eising 2008, p.12). In fact, the question of how and whether the EU affects pluralist, corporatist, or statist political systems has not been clearly answered until this day.

To give an often-cited example: Vivien Schmidt (1999a) and Maria Green Cowles (2001) both point to systematic factors in their study on the effects of the EU on national interests. Vivien

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<sup>11</sup> Rainer Eising adds 'networks' to this list (Eising 2007a, p.175).

Schmidt examines the impact of the EU on types of interest intermediation in France, Germany, the UK and Italy. She posits that the German corporatist system is more in line with the quasi-pluralistic EU model than the statist mode she observes in France, the UK and Italy. As a consequence of the 'misfit' between these statist systems and the EU model, adaptational pressure should be more important in these three countries than in the German case. By contrast, Maria Green Cowles comes to different conclusions in her study on the effects of EU foreign trade policy-making in the Transatlantic Business Dialogue (TABD) on business-government relations. She observes that large firms play a direct role in the making of EU foreign trade policy-making in the interaction mode in the TABD, characterised as 'elite pluralism' (Cowles 2001, p.163). These large companies have a direct and privileged access to EU officials. She suggests that the elite pluralist nature of the European business-government relations constitutes a considerable challenge for the actors operating in the French statist and the German corporatist system; it is not a major problem for pluralist United Kingdom, since it better 'fits' the EU elite pluralist system. Cowles finds empirical justification for the cases of Germany and the United Kingdom. The French industry association had actually gained power in its relationship with the French government at the domestic level as a result of its participation in the TABD. As one can see, Schmidt and Cowles each have their own conception of pluralism: whereas the former adopts a broad, cross-sectoral perspective of EU policy-making, the latter studies decision-making in a specific forum (the TABD) and its impact on national foreign economic interest intermediation. Their different definitions of 'pluralism' leads them to consider different empirical objects hence making comparisons difficult and generalisation even more so (Eising 2007a, p.179).

The study of Schneider *et al.* (2007) illustrates further the persistence of contrasting findings of works based on categorisation. In their study of domestic pre-negotiations across 15 decision-making cases and four countries (France, Germany, Great Britain, and the Netherlands), Schneider and colleagues seek to evaluate the usefulness of the classification of interest intermediation systems in determining political outcomes. In so doing, they empirically investigate whether interest intermediation patterns emerge during domestic pre-negotiations. They qualify the relations between government agencies, interest groups and parties as primarily statist (*étatiste*). As such, national governments are predominant in EU affairs and groups rely on state actors in order to take part in negotiations. This constitutes 'a



blow' for scholars (such as Cowles 2001), who argue that interest intermediation is increasingly characterised by rising power of interest groups to the detriment of national governments. Rather, Schneider and colleagues find that 'the state is the ultimate arbiter in the domestic pre-negotiations and that private actors only exert considerable influence in the more controversial cases' (Schneider *et al.* 2007, p.445).

Researchers working on the impact of the European Union on national interest groups (i.e. 'top-down' approach) seem to share the view that that these repercussions take various forms. A first group of authors holds that the gradual development of European competencies has not fundamentally altered domestic interest intermediation patterns. National features like domestic networks, cultural habits, private-public actors' relations, systems of resource attribution have either not been impacted by the EU or have undergone marginal change as a result of European integration (e.g. Braun and Van den Berg 2013; Hedling and Meeuwisse 2015; Hristova and Cekik 2015). By contrast, another set of studies brings evidence that the EU did bring change to domestic interest intermediation patterns. Fairbrass and Jordan (2002), for example, find a substantial effect of EU's mounting competency in their study on biodiversity and land-use planning on UK-based environmental groups. They define Europeanisation as 'a 'top-down' process in which the EU has a *progressive impact* on national political arenas' (p.139, italics in original). They conclude that the EU has had profound effects on the environmental politics in the UK, insofar as it altered the relationships between state and non-state actors at both domestic and European levels. A third group of authors adopts a more general perspective, insisting on the plurality of potential repercussions of EU schemes on domestic systems. Along this line, Gerda Falkner offers a typology of the impact of European integration on domestic interest intermediation. She expects the long-term effect of this 'top-down' Europeanisation to be 'moderate diversity'. Over time, she foresees a double dynamics characterised by persistent (or even increasing) diversity in public-private relations between sectors and increasing common traits across policy networks (both between member states and between states and the European Union) (Falkner 2000). Sabine Saurugger (2007a) adopts a similar position in a study on the impact of European integration on French non-state actors. In her view, European integration has a 'differential impact' on French non-state actors, ranging from adaptation to rejection. This differentiation, she contends, varies along two factors: the types of actor and the ways in which the state interacts with them. Saurugger finds

that well-established groups with good access to state officials do not adapt. In cases when these groups do adapt, national features remain strong. By contrast, non-state actors who see a decline in their domestic presence view the EU as an opportunity to regain their status and influence.

The idea that the Europeanisation of domestic interest groups is of limited magnitude may be partly explained by the focus on certain manifestations of EU effects. According to Robert Ladrech, the tendency to point at external signs of adaptation to the EU conveyed by national governments may mask what he calls 'internal' Europeanisation. He suggests that researchers should pay more attention to cases where the European impact is incorporated into traditional channels of influence (Ladrech 2010). Although such a view underlines the many facets of the Europeanisation process, one may object that the operationalisation of the 'internal' dimension may be very challenging. Among the various difficulties that may arise, how can one distinguish what is 'europeanised' from what is influenced by other factors?

The EU is certainly not the only cause that induces change in interest group politics. Domestic and international factors may also be at play. The study of Dirk Lehmkuhl (2000) on the influence of the European integration process on the associational landscape of the transport sector in Germany and the Netherlands illustrates the difficulty in establishing a clear causal link between the European and the domestic spheres. Drawing from the Schmitter-Streeck model, which depicts associations as torn between a 'logic of membership' and a 'logic of influence', the author argues that the influence of European integration on the balance between the two logics varies according to pre-existing regulatory configurations. Although Lehmkuhl finds some correlation between European integration and domestic change, he admits that 'it would definitely be going too far to maintain that all the changes that have been observed and all the adaptations of associations were induced by European integration' (Lehmkuhl 2000, p.15). Some authors are very critical regarding the usefulness of the notion of Europeanisation to scrutinise the adaption of interest organisations to European developments. Grote and Lang (2003), for instance, replace Europeanisation with organisation theory (i.e. organisational ecology), as they contend that '[...] environmental adaptation in the real world follows rather different paths and ends in diverse configurations [...]' (ibid., p.230). In a similar way, Coen and Dannreuther (2003) find scarce evidence of change in relationships between business and

governmental actors resulting from European integration. They therefore focus their use of Europeanisation on the strategies adopted by business actors at the EU level.

## 2.4.2 To what extent have domestic groups transferred their lobbying activities to the European level?

A second research stream, that gained modest attention in recent years, conceives Europeanisation as ‘venue shopping’. Widely utilised by Baumgartner and Jones (1993) in the U.S. context, this concept refers to the idea that interest groups turn their attention to the venue that provides the most favourable opportunities in terms of policy achievement. A handful of scholars investigating the EU have applied this logic to the multi-level European polity and to their study on the behaviour of interest groups in national and EU political arenas (what Princen and Kerremans (2008) name ‘vertical venue shopping’). In contrast to the ‘top-down’ approach, Europeanisation is viewed here as a ‘shaped process, not a passively encountered process, at least for those actors [...] that have had certain attributes’ (Wallace 2000, p.370).

### 2.4.2.1 *Definition and research agenda*

Europeanisation conceived as ‘venue-shopping’ highlights strategies deployed by organised interests to project their lobbying activities beyond national borders (Callanan 2011; Princen and Kerremans 2008; Tatham 2010; Beyers and Kerremans 2012). As regards interactions of interest associations with the EU-level political system, a number of studies have shown that the European Commission is a particularly important interlocutor for interest groups, especially at the stages of agenda setting and policy formulation (e.g. Mazey and Richardson 1993; Coen 1997, 1998; Richardson 2000). The European Parliament has arguably also become an increasingly important institution for interests, as its formal competencies grew (Kohler-Koch 1997).

Much of Europeanisation studies conceive Europe as a multi-level governance system, characterised by the fragmentation of power distribution and the multiplication of actors taking part in policy-making. This move away from the omnipotent role of the state and from rigid hierarchies among socio-political actors is said to open new access routes beyond national borders for actors such as interest groups. Hence, domestic interest groups are often

depicted as having multiple access points<sup>12</sup> at their disposal and strategically choosing to activate national and transnational channels to access European decision makers (Beyers 2002). This rational and calculated conception of actors' choices is, however, nuanced by studies highlighting 'more experimental, and less deliberate' forms of venue shopping outside the European Union (see, for instance, the contribution of Sarah B. Pralle on vertical venue shopping applied to the internationalisation of Canadian Forest Advocacy, 2003).

In contrast to neofunctionalist assumptions which dominated EU scholarship in the 1950s and early 1960s, most publications on interest group Europeanisation are united by the view that the shift to the EU level is neither 'automatic' (Beyers and Kerremans 2007, p.460), nor a 'natural response' (Klüver 2010, p.187). Indeed, it is widely acknowledged that not all interest groups see an interest in pursuing activities at the European level. Therefore, scholars seek to unveil the reasons why some groups europeanise their activities, while others do not. Hence, they try to uncover the conditions under which national associations engage at the EU level (Mazey and Richardson 1993; Beyers 2002; Klüver 2010; Dür and Mateo 2014). Said differently, they aim to 'develop a systematic, comparative, and empirical account of the factors that "push" groups to transcend borders' (Beyers and Kerremans 2012, p.264). As illustration, Jan Beyers and Bart Kerremans examine domestic interest groups. They understand Europeanisation as 'the extent to which an interest group acknowledges the impact of Europe on its substantive policy interests and/or the extent to which groups take this impact into account' (Beyers and Kerremans 2007, pp.460-461). As such, the authors are interested in assessing the degree to which different organisations have amended their political conceptions and behaviours towards the EU. Beyers and Kerremans hold that domestic factors are crucial in defining interest groups' activities and whether or not they expand their actions to the EU level. In fact, the bulk of studies on the Europeanisation of interest organisations come to a similar conclusion as regards the importance of national features (or 'embeddedness') in explaining the move to the European political scene. Along this line, the European Union political arena is seen as a potential additional layer of politics (Ladrech 2005), which supplements rather than substitutes for domestic systems (Kohler-Koch 1997, p.3; see also

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<sup>12</sup> Rainer Eising defines 'access' as: 'the frequency of contacts between interest organizations and EU institutions. These contacts range from informal bilateral meetings with EU officials and politicians to institutionalized committee proceedings' (Eising 2007b, p.331).

Coen 1997, 1998; Sidenius 1999; Beyers and Kerremans 2012). In fact, whereas Brussels-based interests seize every opportunity to operate in the European context, national interests target the European Union only when necessary, in a problem-solving manner.

#### 2.4.2.2 *Explaining how and why interest groups turn to Europe*

Having recalled the use of ‘venue shopping’ in part of the literature on the Europeanisation of interest groups, I now examine the different determinants of actors’ Europeanisation found in past publications. Although the capacity to lobby EU institutions is central for the representation of national interest groups, attention to the subject has remained relatively modest. What is more, no coherent image as to what determines the activation by domestic interest groups of the EU level has arisen until today. In order to determine the reasons lying behind the decision of organisations to engage with Europe, scholars have engaged in multivariate analyses. However, views on the relevance of each of these variables differ, the literature providing a ‘kaleidoscope of impressions’ (Kohler-Koch 1994, p.167) rather than systematic narratives applicable to various cases. To quote Heike Klüver and colleagues, ‘[...] interest group mobilization in the European multi-level and multi-institutional context is a complex affair that remains poorly understood’ (Klüver *et al.* 2015, p.448). Below, I present four explanatory factors often utilised in the Europeanisation literature on interest groups. The first two – resources and group type – belong to the group characteristics category. The third concerns the issue area. The fourth variable – the domestic institutional environment of interest organisation – has been the most frequently used in the literature. I present each of these variables separately below.

##### 2.4.2.2.1 *Resources*

The resource dimension is present in much of the literature on the Europeanisation of interest groups. Yet, scholars are divided on the effects of this factor on the spill over of interest group activity to the European level.<sup>13</sup> A convergence of views on the matter seems out of sight, as findings remain contradictory to this day. This situation may derive, in part, from a rather

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<sup>13</sup> Uncertainty about the importance of money in interest group politics concerns the United States as well. Although the American political system is known for relying to a considerable extent on financial contributions, academics have questioned its prevalence in interest group activities. For example, Baumgartner and colleagues, in a landmark study on the role of interest groups in the U.S. policy-making process over the period 1999-2002 concluded that the link between resources and lobbying success was unclear (Baumgartner *et al.* 2009).

ambiguous use of the term 'resources'. The latter may refer to many different things such as money, staff size, knowledge, legitimacy, and access to policymakers. It is therefore important to clearly specify what one understands by 'resources' when utilising this factor (I do this in the hypotheses section).

Some scholars find a link between resources and the ability of actors to engage in supranational lobbying. In a study on how different-sized domestic firms activate varying lobbying channels, David Coen and Charles Dannreuther explain the tendency of large firms to have more facility in acquiring an insider status in EU lobbying than small companies, by referring to the resource dependency argument. Hence, large firms are more present at the EU level because of well-funded representations in Brussels and the ability to formulate clear objectives. Small structures face more hurdles in europeanising their strategies. Dependent on national peak business associations, as well as the Economic and Social Committee, they suffer from poorly-defined interests, as well as conflicting positions and traditions. To paraphrase the authors, large firms have the resources to play the EU game (Coen and Dannreuther 2003, p.260). On a similar note, Eising (2004, 2007b) stresses the importance of resources in explaining access of business interest organisations to EU institutions. Dür and Mateo (2014) also find evidence that the amount of resource business groups have at their disposal affects whether these actors lobby at the EU level or not. As participation in EU lobbying requires the actor to possess substantial information and expertise, the European system favours wealthy business groups, which can easily adapt to such high demands. By contrast, less well-endowed business groups seek more reliable lobbying routes, and therefore focus on the domestic level. As such, Dür and Mateo contend that, in the case of business groups, the amount of resources conditions the influence of group type on the Europeanisation dynamic. In an article entitled 'The impact of the traditional business-government relationship on the Europeanization of Japanese firms', Yukihiro Hamada notes that better-financially endowed companies are more likely to establish a strong presence at the European level (Hamada 2007). Finally, Heike Klüver concludes, in her study on lobbying strategies of French and German agricultural interest groups in the Doha Round, that resources have an effect on the Europeanisation of lobbying activities of these actors (Klüver 2010).

According to a number of researchers, who highlighted the importance of resources, actors' decision to carry out lobbying activities at the EU level results from an exchange. In particular, financial and personnel means are said to be crucial within an exchange model whereby the European Commission demands information and grants access in return. The Commission is portrayed as an institution particularly permeable to interest groups that are able to deliver valuable information – or 'access goods' – to an under-staffed Commission (Bouwen 2002; see also Mazey and Richardson 2002). To a lesser degree, the European Parliament is described as a forum where expertise is requested from the part of interest organisations in order for the institution to carry out its task of assessing Commission proposals (Bouwen 2002). Hence, in cases when lobbying is based on these exchange dynamics, some authors expect resources – and especially expert knowledge – to play a significant role in explaining the extent to which interest groups deploy their work at the EU level.

Other scholars are more cautious when handling the resource factor. For Beyers and Kerremans, claiming that resources are prominent factors in the Europeanisation of lobbying strategies and activities undermines the complexity of Europeanisation dynamics. In their view, '[...] Europeanization is not necessarily a privilege for large and resourceful organizations [...]' (Beyers and Kerremans 2007, p.476; see also Beyers and Kerremans 2012). Sharing this line of reasoning, Robert Ladrech holds that the connection between resources and EU-level activities is not as obvious as some might say. According to him, more resources do not automatically cause an increase of European involvement. 'Lobbying at the European Parliament is episodic, whereas relations with national government officials are ongoing' (Ladrech 2010, p.153). Jan Beyers and Bart Kerremans find no effect of resources on the ability of French, German, Belgian, and Dutch interest groups to access EU-level venues (Beyers and Kerremans 2007). Christine Mahoney, on her side, does not observe any clear link between resource and lobbying success (Mahoney 2007).

#### *2.4.2.2.2 Group type*

Among scholars employing the group type factor, most distinguish two general types of collective actors, namely interest groups (i.e. business actors and trade unions) and social

movements.<sup>14</sup> It is commonly admitted that these different group categories apply different lobbying strategies.<sup>15</sup> A substantial segment of the Europeanisation literature focuses on business actors and their ability to make use of the European level to serve their interests (e.g. Coen 1997, 1998; Richardson 2000; Mazey and Richardson 2001; Dür and Mateo 2014). Research by a number of scholars has found that these actors, particularly large and rich firms, are more europeanised than other types of interest actors since they are capable of adapting to the European environment, and use a multitude of different political channels. This Europeanisation process does not imply the end of the importance of national structures, but nonetheless, a tilt of power distribution in favour of large firms is observed (Coen 1997, 1998). Moreover, business interests are said to rely mostly on insider means because they have the necessary resources to engage directly with policymakers and to develop specific political channels within the European Union.

Compared to business interests, much less work has been conducted in the field of social movement studies until the 1980s (Saurugger 2007a; Eising 2007a; McCauley 2011). These actors, who are assumed to be in possession of fewer resources and operate mostly within fluid domestic environments, are expected to turn mostly to outside strategies, such as protests or media campaigns. Moreover, as they are less subject to EU legislation, one expects that they are less inclined to operate at the European level. Evidence shows that in cases where they do target the European Union, they usually favour domestic channels. The findings of the work of Imig and Tarrow (2001) on the subject confirm this trend. In their study of 9872 protests over the period 1984-1997, they found that 5 percent of them were related to the European Union; the other 95 percent corresponded to reactions to national and regional issues. Furthermore, considering the protests which had to do with EU-related affairs, 83 percent occurred at the domestic level; only 17 percent of these actions were subject to transnational cooperation.

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<sup>14</sup> Sabine Saurugger uses the term 'non-state actors', to include both interest groups and social movements. She suggests to move away from the distinction between the two groups and, instead, to locate interest representation on a continuum ranging from loosely to highly organised, and from consultation to protest movements (more on the delineation of actors in Saurugger 2013, pp.335-336).

<sup>15</sup> Some authors, however, question the relevance of this dichotomy between 'interest group studies' and studies on civil society and social movements in the Europeanisation literature (e.g. McCauley 2011; Saurugger 2013; see also Beyers 2008).



#### 2.4.2.2.3 *Issue area*

The academic community has also underlined the need to take policy issue features into consideration. In her conceptual article on policy networks, Gerda Falkner (2000) underlines the need to examine EU interest intermediation sector by sector. However, the issue area factor has held a secondary position until recently in explaining interest groups' shift to the European level, in comparison to other factors (especially domestic embeddedness within a specific institutional context). Along these lines, Jan Beyers and Bart Kerremans conclude – in a study on Belgium, France, the Netherlands, and Germany – that the policy sector weakly explains multi-level interest group activities in comparison to other factors like 'access gained to domestic policymakers' or 'the distance vis-à-vis governing political parties' (Beyers and Kerremans 2012, p.284).

Things have nonetheless evolved since a decade or so. US scholars Frank R. Baumgartner and Beth L. Leech have insisted on the importance of incorporating 'social and temporal context of lobbying' and on relying more extensively on large-scale studies (Baumgartner and Leech 1998, p.177). Several years later, David Lowery and Virginia Gray called for a similar research agenda (Lowery and Gray 2004, p. 163). Echoing these recommendations, research on interest representation in Europe has witnessed the emergence of large-N studies on interest intermediation in recent years.<sup>16</sup> This segment of the literature is attentive to contextual factors, including sector-specific traits (see Lowery 2014).<sup>17</sup>

Against this backdrop, issue area is often included in large-N studies on interest group lobbying. Based on substantial data collected over a three-year period, Beyers and Kerremans (2007) find that the policy area has some importance in explaining interest groups' attempts to mould the European external trade policies in the World Trade Organisation. Hence, they observe that interest groups operating in sectors where European institutions have substantial

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<sup>16</sup> Whether the development of large-N studies on interest representation is 'inevitable', as David Lowery claims, remains to be seen (see Lowery 2014, p.124). In the meantime, the benefit of such studies is questionable. Whereas large-N studies seek to produce generalisations, '[they] pose [...] huge disadvantages in Europeanization studies as the specific variables must be very general in order to create a comparative research design' (Saurugger 2005, p.298).

<sup>17</sup> The incorporation of contextual factors has been most visible, up to this day, within the ongoing INTEREURO Project (Comparative Research on Interest Group Politics in Europe). Participants to this project – financed by the European Science Foundation – tend to be critical vis-à-vis case studies, defining them as 'contextless small-N analyses' leading to 'overly abstract paradigms' (Lowery 2014, p.123).

competency are more prone to utilise the European level. By contrast, organisations mostly active in domains largely regulated by national legislation are less likely to be active at the European level, given that the domestic level enables them to fulfil most of their political objectives. Dür and Mateo (2014) come to similar conclusions in their attempt to explain variation of the degree to which interest groups develop lobbying activities at the EU level. Considering data collected on 880 domestic associations, they conclude that the policy area is a factor to take into consideration. In that sense, interest groups active in areas where the EU is competent are more inclined to europeanise their activities than other groups that operate in fields where the EU has less competence or is absent. More recently, the 2015 Special issue of the *Journal of European Public Policy* on ‘Legislative lobbying in context: the policy and polity determinants of interest group politics in the European Union’<sup>18</sup>, casts a new light on the effects of issue-specific contextual aspects<sup>19</sup> on lobbying activities of interest organisations in the European Union. Not denying the relevance of interest group characteristics in studying group intermediation, the authors nonetheless posit that ‘[...] the contextual nature of specific policy debates is highly important for interest group lobbying [...]’ (in this Special Issue, Klüver *et al.* 2015, p.448).

#### 2.4.2.2.4 *Domestic institutional factors (or ‘domestic embeddedness’)*

An additional factor identified in the literature is the domestic organisational environment. It figures as the prime explanatory variable of interest group Europeanisation in the present literature. There is a large consensus within the academic community that the national institutional setting (i.e. access<sup>20</sup> of interest organisation to domestic decision makers) is a paramount determinant in explaining the Europeanisation of interest organisations. Many suggest that the projection of some actors to the EU level does not only stem from new external factors deriving from European integration, but that it is also defined by domestic socio-political context conditions, to a substantial degree (e.g. Sidenius 1999; Beyers 2002; Grote and Lang 2003; Saurugger 2005; Hedling and Meeuwisse 2015; Vannoni 2015). However, views diverge on the ways in which this context affects the extension of group activities to the EU

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<sup>18</sup> This issue assembles research articles from the INTEREURO project and two contributions from related projects.

<sup>19</sup> These issues-specific contextual aspects comprise ‘[...] the complexity, the policy type, the status quo, the salience and the degree of conflict characterizing legislative proposals and the associated issues’ (Klüver *et al.* 2015, p.447).

<sup>20</sup> ‘Access’ may be defined as ‘the channelling or exchange of policy-relevant information through formal or informal networks with public actors’ (Beyers 2002, p.587).

level (Klüver 2010, p.176). No clear picture has emerged to this day on how domestic interest representation systems and European integration are linked (Eising 2007b, p.335).

Two distinct approaches<sup>21</sup> on the link between domestic access and access seeking at the EU level are found in the literature: the 'positive persistence hypothesis' and the 'compensation hypothesis' (or 'boomerang effect') (Beyers 2002). Advocates of the former claim that interest groups that enjoy access at the national level are more prone to be active at the EU level. This argument is based on the idea that 'domestic embeddedness'<sup>22</sup> facilitates access of domestic stakeholders to European decision makers. It is therefore crucial to have a well-established national network in order to access the EU level. A number of scholars found evidence in this direction, such as Rainer Eising, who asserts that '[...] domestic embeddedness tends to reinforce access at the EU level' (Eising 2007b, p.351). On similar grounds, Jan Beyers underlines the prominence of 'domestic structural conditions' in determining access of private interests to domestic and European political stakeholders (Beyers 2002, p. 607). He finds a clear correlation between domestic embeddedness and EU lobbying, particularly in the case of 'specific' (or 'concentrated') interest groups<sup>23</sup> (much less so concerning 'diffuse' interests). Access obtained by diffuse interests in the domestic environment creates a positive dynamics regarding the formation of EU networks. On these observations, Beyers concludes that the EU level is, to a large degree, accessible to organisations that are already firmly rooted in domestic policy networks. Actors who do not have such a status will tend to focus on the domestic dimension. Studies of Beyers and Kerremans show that the primary factor to consider in

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<sup>21</sup> In his endeavour to supply an exhaustive typology of interactions between domestic access and access to the EU, Beyers presents two additional interest group strategies (see Beyers 2002, table 1, p.594):

- The 'Reverse Positive Persistence Hypothesis' assumes that some actors may neither try nor gain access. To illustrate this situation, interest groups which are weakly rooted into domestic networks are usually not in a position to deploy at the European level (*ibid.*, p.593).
- The 'Negative Persistence Hypothesis' illustrates cases where stakeholders that rely heavily on domestic access to fulfil their objectives are not incited to deploy strategies in the EU arena (*ibid.*, p.594).

These two hypotheses are not presented here, as the Europeanisation literature on interest groups does not seem to utilise them much.

<sup>22</sup> 'Domestic embeddedness' refers to 'the channeling or exchange of policy-relevant information through formal or informal networks with public actors' (Beyers 2002, p.587).

<sup>23</sup> In the words of Jan Beyers, '[...] specific interests, also called 'socio-economic' or 'producer interest groups', have a clear-cut stake in the production process and, in general, they represent and defend the interests of rather well circumscribed or more concentrated constituencies. Euro-level examples are trade unions (e.g. the European Federation of Metalworkers), employer unions (e.g. the European Centre of Enterprises with Public Participation) and associations linked to a particular sector (telecommunications, agriculture, small and medium enterprises – e.g., the Confederation of European Cigarette Manufacturers) (Beyers 2002, p.589). (On the presumed difficulty of diffuse interests to mobilise, see *ibid.*, pp.589-590.)

explaining Europeanisation is the domestic setting in which interest groups operate (Beyers and Kerremans 2007, 2012). To quote them: 'Even though it is often argued that especially resourceful organizations Europeanize, we argue that it is not necessarily size or resources that matter. More important is how organizations are structurally connected or tied to their environment' (Beyers and Kerremans 2007, p.464). Further, Hedling and Meeuwisse (2015) conclude in their study on the Europeanisation of Swedish civil society organizations that the commitment of these actors in EU-level activities appears to be directly related to the roles they played throughout the various phases of the Swedish welfare state. More to the point, a study on how a Dutch environmental NGO (Milieudefensie) has adapted its strategies to the growing importance of EU integration finds that its active involvement in the EU area reflects its strong presence in the Netherlands. Domestic networking therefore appears to be the base on which the NGO deploys its EU-level lobbying strategies (Hoff 2015).

On the contrary, other scholars assume that peripheral interest groups that have poor domestic access will more likely turn to the EU level, as they will try compensate their weakness by bypassing national public authorities and interact directly with EU institutions (e.g. Marks and McAdam 1999; Guiraudon 2000; Richardson 2000; Fairbrass and Jordan 2001). Such a view corresponds to the compensation hypothesis (or 'boomerang effect') (Beyers 2002).<sup>24</sup>

Mazey and Richardson point to the fact that lobbying the European Commission may prove to be a fruitful alternative for interest groups willing to make their voices heard by national political decision makers, but who are not able to do so directly because of weak embeddedness within domestic policy-making processes. They note, however, that this bypassing is partial, as the national dimension cannot be entirely excluded from such strategy (Mazey and Richardson 1993, p.16). Moreover, Fairbrass and Jordan, in their study on the evolution of EU diversity policy from 1970-2000, find empirical evidence of the direct use of the EU channel by domestic interest groups (Fairbrass and Jordan 2001). Largely excluded

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<sup>24</sup> An interesting connection may be drawn between this approach and the multi-level governance perspective. The link is more or less explicit in the literature. As noted in the first part of this paper, multi-level governance emphasises the multiplicity of interconnected political channels in a multi-level setting. Originally, multi-level governance focused mainly on subnational administrations, not on subnational actors such as interest groups. With time, the research agenda has widened and scholars working on interest group politics have utilised this framework to emphasise, among other things, the ability of poorly domestically integrated groups to bypass their national government and to access the EU decision-making spheres directly.

from the British representation system, environmental groups actors have turned to European institutions (mainly the Commission and the European Court of Justice) to make their voices heard, thereby using the supranational level to bypass domestic blockages.

Heike Klüver comes to similar conclusion in her study on the Europeanisation of lobbying activities of French and German interest groups in the field of agriculture. She finds that domestic institutional characteristics dictate the position of interest groups vis-à-vis a potential EU-level involvement when groups possess 'high resources' (in contrast to 'very high resources', in which case, the national context is not considered). These domestic institutional settings are different in the two countries under study: whereas the German interest intermediation mode is said to be corporatist, the French case is described as statist. Consistent with the compensation hypothesis, Klüver concludes that the French mode of interest intermediation, characterised by the prevalence of the state and a pronounced mistrust of governmental actors vis-à-vis interest representation, fosters domestic interest groups to embark on costly EU lobbying (Klüver 2010). Klüver and colleagues present a similar argument in their introductory article to the Journal of European Public Policy Special Issues (Klüver *et al.* 2015).

In sum, the testing of the different explanatory factors presented above has not produced a unified picture of what determines the propensity of actors to extend their lobbying activities to the European level. This said, these variables are a useful starting point upon which to consolidate future findings. They constitute the backbone of my hypotheses, introduced further down and empirically tested in chapter 5.

### 2.4.3 The sociological turn of Europeanisation studies and its mark on this thesis

In parallel to what is often named the 'mainstream Anglo-Saxon approach' to European studies (i.e. neo-institutionalist approaches), a group of academics has examined the integration of Europe in the sociological tradition. This research perspective – which borrows from the neo-functionalist school and the interest of authors such as Ernst Haas (1958) in the socialisation of elites in the European construction – has stirred much interest in France under

the leadership of Christian Lequesne and Andy Smith since the early years 2000.<sup>25</sup> Whereas neo-institutionalist research is mostly interested in norms and rules, this French-speaking literature focuses on cognitive and normative frames, comprising notions such as 'policy paradigms' (Hall 1993), 'belief systems' (Sabatier 1998) and *référentiels* (Jobert and Muller 1987). As explained by Yves Surel, these frames 'are intended to refer to coherent systems of normative and cognitive elements which define, in a given field, 'world views', mechanisms of identity formation, principles of action, as well as methodological prescriptions and practices for actors subscribing to the same frame (Surel 2000, p.496).

In general, political sociology explains change by focusing on the role of actors in the production of norms, their modes of representation, their strategies and power relations.<sup>26</sup> Drawing more or less explicitly on works of Pierre Bourdieu, this school of thought examines social rules in relation to its wider social environment (or social 'field'). As discussed above, its application to the Europeanisation literature has led to a substantial expansion of the research agenda, which incorporated 'informal rules' and horizontal mechanisms, prior to emphasising the interactive aspects of Europeanisation and the role of actors in the European integration process (see Radaelli's, Palier and Surel's contributions to the Europeanisation debate). By focusing on actors' motivation and political work (see Merand 2008), researchers wish to cast light on what has been an under-researched topic. The objective is not to undermine the relevance of other explanatory variables (see Jacquot and Woll 2004, p.8), but to highlight actors' motivations and strategies in European integration dynamics. For one thing, there seems to be a wide consensus as regards the fact that Europeanisation processes may occur in the absence of exogenous pressure from EU institutions. It is argued that instead of reducing actors' actions to a mere reaction (see Risse *et al.* 2001), they result from their ability to understand their environment to choose what they think is best for them. Using the notion of 'usage', Sophie Jacquot contends that any alteration of EU-related public policies is largely due to actors' activities, thereby depicting Europeanisation as a flexible process, which is not systematically caused by constraints (Jacquot 2006).

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<sup>25</sup> It is disputed whether this approach is typically French or not (see Menon 2008).

<sup>26</sup> Whereas the political sociological literature is much concerned with competition and power struggles between actors, social institutionalism tends to focus on forms of cooperation between actors (see Merand 2008, p.42).

Developed by Sophie Jacquot and Cornelia Woll, the term ‘usage’ is defined as the connection between political transformation and the ability of an actor to exploit new opportunities created by the European system. In more precise terms, ‘usage’ corresponds to ‘[...] practices and political interactions which adjust and redefine themselves by seizing the European Union as a set of opportunities, be they institutional, ideological, political or organisational’ (Jacquot and Woll 2003, p.4).<sup>27</sup> Not only is the Europeanisation process understood here as the strategic use of the European stage by domestic actors (i.e. ‘strategic usage’), but it also expands to encompass the more sociological effects of the EU, namely the influence of the EU on values, mindset, and practices of national actors (i.e. ‘cognitive usage’).<sup>28</sup> In this second sense, it considers how Europe triggers cognitive dynamics in which stakeholders interpret and subsequently act. Referring, once again, to the definition of Europeanisation put forward by Bruno Palier and Yves Surel, this conception fits nicely with Europeanisation understood as ‘processes of institutional adjustments, strategic and normative induced by European integration’ (Palier and Surel 2007, p.39; own translation). Against this background, ‘Europeanisation’ is defined as a process of adaptation of interest groups resulting from more or less direct developments occurring at the EU level.

The concept of ‘cognitive usage’ is particularly fruitful to borrow from in the context of this research in order to shed light on the causal effects of European integration on cognitive frames of domestic interest groups. Considering how the EU influences the perception of national actors adds a new dimension to the more ‘classic’ understanding of Europeanisation defined as the extension of actors’ lobbying activities to supranational arenas. Under this prism, I investigate in chapter 6 the influence of European integration on interest groups’ perception in the context of national debates on legal immigration and competitiveness.

## **2.5 Research gaps and contribution to the body of knowledge**

Considering the existing literature on the Europeanisation of interest groups reviewed above, two main bodies of works stand out. On one side, an Anglo-Saxon literature that, for its large part, seeks to explain why actors turn to Europe and as such, assesses the explanatory value

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<sup>27</sup> Jacquot and Woll (2003, 2004) define their approach as ‘a comprehensive sociology of European Integration’.

<sup>28</sup> Jacquot and Woll’s typology also includes the ‘legitimising usage’, defined as ‘[...] a type of usage aimed at increasing or renewing political legitimisation, taking place [...] almost exclusively on the national political scene in the context of debates on public policies at the national level’ (Jacquot and Woll 2004, p.19; own translation).

of various factors. On the other side, studies predominant in the French academic community, adopting a more 'sociological' outlook on European studies. These two streams of the Europeanisation literature have developed, for the most part, in isolation from one another. As underlined by Frédéric Merand, the dialogue between these two academic literatures is almost inexistent despite a certain degree of convergence of research programmes.<sup>29</sup> English-speaking institutionalist researchers are rarely acquainted with research carried out in France, while French scholars often seek to differentiate themselves from mainstream institutionalist studies (Merand 2008). This has led, to paraphrase Adrien Favell, to one of the most frustrating situations in the field of political science (Favell 2000, p.3).

The present research work intends to contribute to bringing these two research corpuses closer to each other, in an attempt to draw bridges and foster dialogue between the two academic communities. It does so by incorporating a sociological shade into a more Anglo-Saxon type of analysis based on interests' strategic relations with EU institutions. The novelty of this research project further resides in the fact that it applies (this dual perspective to a much under-researched case study, namely the Europeanisation of actors in the area of immigration<sup>30</sup>. Scholars who made use of a sociological perspective to study immigration can be counted on the fingers of one hand (e.g. Favell 1998<sup>31</sup>, 2000).

The innovative character of this research further lies in the way explanatory variables are tested (see chapter 3 for a discussion on the relevance of 'hypothesis testing' in a qualitative research design). Unlike past studies on the Europeanisation of interest groups that often focus on *whether* variables are useful to explain variation in actors' supranational mobilisation, this contribution also deals with *how* this is so. In other words, it goes beyond general patterns and investigates the ways in which individual groups have adopted EU-oriented strategies. As

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<sup>29</sup> For example, both consider formal and informal social norms as equally important to understand any kind of human activity.

<sup>30</sup> The term 'migration' is understood in this study as the entry and residence of third-country nationals. It does not, therefore, include 'mobility', which refers to the movement of persons already present in the European Union.

<sup>31</sup> Adrian Favell's article on 'the Europeanisation of immigration politics' investigates the ways in which certain actors utilise what he names 'the emerging political field of immigration related activities at the EU level' (Favell 1998, p.1). Although the author refers to a terminology used in sociology and does focus on the people who make EU policies, his contribution resonates very much with Europeanisation Anglo-Saxon publications focusing on national institutional factors. In a later publication, he refers to his 'Anglo-Saxon' reading of Bourdieu (Favell 2000, p.3).



such, the angle is widened to include the capacity of actors to use different variables in a particular way (see chapter 5).

More generally, this research intends to participate in the promotion of actor-centred perspectives of Europeanisation processes. As explained earlier, most Europeanisation studies until today have considered the influence of the EU on domestic policies, actors being often viewed as mere transmission belts. The literature in the field of migration is no exception. In this context, one could posit that 'bringing politics back in' (Grossman 2004) is currently most pressing. Grasping the role of actors is much needed at a time of extensive legislative activity in the area of labour migration policies that involves the participation of a myriad of both governmental and non-governmental stakeholders. Seven years ago, Alexander Caviedes was already pointing to the fact that '[...] the key factor in analyzing policy development is the involvement (or not) of the social partners' (Caviedes 2010b, p.2). Whether this also holds true at the European level is specific to each case under investigation. In any event, the question deserves to be asked and to appear more systematically in academic works.

## **2.6 Presentation of hypotheses**

After having presented the different conceptions of the Europeanisation of actors found in the literature, it is worth digging deeper into the matter of how this process may actually take place. What forms might the Europeanisation of interest groups concretely take on the ground? How can variations in these Europeanisation patterns be explained? Hypotheses regarding the two dimensions of Europeanisation tackled in this study – the move to Europe and cognitive alterations caused by European integration – are presented here. These assumptions constitute the common thread running through the present work.

Despite the central importance of interest group lobbying activities in a multi-level setting and of the impact of European integration on perception of actors, no common view has emerged on the subject to this day. Assessing the relative weight of different explanatory factors found in past academic contributions is a valuable first step in order to refine our understanding of these mechanisms. My independent variables are individual group characteristics (resources and group type) and context-related aspects (issue area and domestic embeddedness). Against this backdrop, I argue that factors related to these different variables combine to mould the

process by which actors decide (or not) to activate the European level. This argument is commonly shared across the literature on interest group lobbying in general, but the ways in which these elements combine to influence lobbying tactics are complex phenomena, which deserve further attention.

A first group of factors that has been singled out in past academic works are group characteristics. Various assumptions link the attributes of individual actors to their propensity to make use of the European level. Two attributes are highlighted below: resources and group types.

As seen in the literature review earlier, findings on the explanatory value of resources is contradictory. This may be linked to a lack of clarity in defining the term itself. Three types of resources may be distinguished: financial, social, and societal. Financial resources, as the word implies, refer to finances or the financial situation of an actor. Social resources relate to 'the social networks interest group representatives have created with the most issue relevant politicians and civil servants both in the European institutions and at the national level' (Saurugger 2008, footnote 15). Lastly, societal resources allude to 'the degree to which citizens accept and support interest group arguments and demands, support that enlarges the group representativeness and subsequently its claims for democratic legitimacy' (ibid.).

The present analysis focuses on the effects of financial resources on actors' Europeanisation dynamics. A number of researchers have contended that interest groups with substantial means should have an easier time turning to the EU than poorly endowed actors. For instance, Rainer Eising finds confirmation for his hypothesis that interest organisations with a large income at their disposal are more likely to turn to Europe than those that do not (Eising 2004, 2007b). According to Andreas Dür and Gemma Mateo: 'When trying to influence policy outcomes, associations need financial resources to be informed about relevant policy developments and to organize lobbying activities such as manifestations and press conferences' (Dür and Mateo 2014, p.576).

Let us imagine two domestic interest groups, actors A and B. Actor A has important financial means, whereas actor B is less well-endowed. Actor A has big teams of experts that are based in Brussels and in the capital back home. Actor B has one person in charge of monitoring both

European and internationally-discussed issues. This person is based in the national capital and travels to Brussels when necessary. In this configuration, actor A is able to follow several EU policies simultaneously and to be proactive on subjects it considers key. By contrast, actor B has to be highly selective and only acts on paramount topics, therefore rarely. Accordingly, one can assume that the amount of resources an organisation possesses influences its ability to expand its lobbying activities to the supranational level, all the more since supranational mobilisation adds to costs induced at the national level. I Therefore postulate that:

***Hypothesis 1 (H1)***

*Interest groups with more financial resources are more likely to display more engagement at the EU level.*

A second interest group characteristic is the 'group type' factor, or, said differently, the type of actors of an organisation. The usefulness of this component in explaining interest group activity at the EU level has been the subject of debates and contradictory findings have remained to this day. For instance, whereas Jan Beyers and Bart Kerremans underline the absence of effect of organisation type on EU lobbying (Beyers and Kerremans 2012), Andreas Dür and Gemma Mateo find evidence of a correlation between group type and group mobilisation at the level of the EU (Dür and Mateo 2012, 2014). Heike Klüver and colleagues, in their introductory article of the Journal of European Public Policy issue on 'Legislative lobbying in context' mention the importance of interest group characteristics (along with contextual factors) in explaining the activation of the European arena by interest groups (Klüver *et al.* 2015).

Most scholars who have used this explanatory variable have distinguished between economic actors on the one hand, and social movements on the other. To illustrate this point, Andreas Dür and Gemma Mateo present their findings along a divide between 'business' and 'non-business groups'. The authors conclude that the 'group type' factor is relevant in some cases, in relation to resource levels. Under this perspective, they posit that the Europeanisation of business groups is linked to the resources they have at their disposal. In short, '[...] material resources increase the Europeanization of business groups [...]' (Dür and Mateo 2014, p.590). This, they note, does not apply to non-business groups, whose engagement at the EU level cannot be linked to the 'resource' factor.

In their study on the Europeanisation of French, Belgium, Dutch, and German interest groups, Jan Beyers and Bart Kerremans consider a series of variables, including the type of interest groups (Beyers and Kerremans 2007, see also 2012). Empirical evidence shows that overall, business-related actors are more active at the EU level than ‘public interests’ and trade unions, the variance between the two categories lying around 30 percent. This said, German trade unions are particularly active European lobbyists, in comparison to their counterparts in the other three countries under investigation (p.468). Based on findings presented above, one could expect that organisations will act differently whether they represent employers on the one hand, or employees, civil society on the other. It is accordingly hypothesised that:

***Hypothesis 2 (H2)***

*Business actors are more likely to turn to the EU than trade unions.*

Regarding context-related aspects, several issue-related factors are worth taking into consideration when studying the Europeanisation of interest groups. In recent years, authors on both sides of the Atlantic have advocated a more systematic testing of these factors (e.g. Baumgartner *et al.* 2009; Mahoney 2007; Dür and De Bièvre 2007; Dür 2008; Klüver *et al.* 2015). In this vein, it has been suggested that the Europeanisation of actors may partly be explained by the particular traits of a policy.<sup>32</sup> Considering that the attributes of a policy issue shape, to a large degree, the context in which actors evolve, one can assume that issue-related factors play a part in the capacity and willingness of actors to activate the EU dimension. The inclusion of issue-related explanations of interest group activism rests, at times, on the idea that actors are encouraged to mobilise and raise their voice if the issue at stake is likely to bring considerable change and to affect their interests. Andreas Dür adopts this argument in his study on US trade policies from the 1930s to the 1960s, showing that American exporters lobbied the government in fear of losses induced by unfavourable trading arrangements (Dür 2007). If this interpretation is correct, the Europeanisation of actors should also be partially determined by issue-related variables such as the complexity (or ‘technicality’, see Dür and De Bièvre 2007) of an issue, the salience and the degree of conflict. In other words, these factors

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<sup>32</sup> The use of issue-related factor is also visible in the literature on interest group influence in the European Union. Although gateways exist between this body of work and contributions on the Europeanisation of actors (illustrated by common tested variables), it should be stressed that the present study does not deal with the influence of actors. References pertaining to the latter are mentioned here insofar as they help clarifying different hypotheses.

should enable us to clarify why certain interest groups orient their lobbying activities towards the European Union or others do not. I discuss each of these variables in turn below.

A first issue-related factor to examine is 'complexity'. 'Complexity' may be defined as '[...] the degree to which a given policy problem is difficult to analyse, understand or solve' (Klüver 2011, p.487). My understanding of complexity rests on two elements: the technicality of the issue and its interconnectedness to other policy areas. The technicality of an issue refers to the fact that it is mainly discussed by experts in the field concerned, and not by political actors (i.e. national ministers), who tend to have more general views on the different dossiers they are responsible for. A 'complex' policy issue is further characterised by its interconnectedness to other policy fields. This means that decisions taken on a complex topic have repercussions for other distinct, but related areas. Hence, effects of political action on a complex issue expand beyond the remit of the issue itself.

Some scholars have argued that the complexity of an issue is an important variable to take into consideration because it effectively affects lobbying strategies of interest organisations (e.g. Klüver 2011, 2013; see also Klüver *et al.* 2015). Whereas some legislative proposals are rather simple and do not affect other policy areas, others deal with highly technical topics whose effects expand to other policy fields. In the latter case, European institutions are keen to gather external expertise, given that their internal knowledge is insufficient for them to forge their position. In this context, one may assume that interest groups that are able to deliver this technical expertise have a privileged access to EU institutions. This said, I presume that the consultation of non-governmental actors is not systematic, and varies according to the level of complexity of the policy issue at stake. Logically, the consultation of interest groups should be most intense when the complexity level of policy issue is very high. By contrast, the lower the complexity of the issue, the lower the consultation level and the less likelihood of accessing decision makers.

A potential objection to this could be that 'access' to legislators active at the EU level is not synonymous with the deployment of actors' activities in European arenas, which can take place via various channels expanding well beyond the sole consultation procedure activated by European institution officials. The argument presented here does not say otherwise, but rests on the assumption that actors' consultation constitutes one explanatory element of their

decision to expand their lobbying sphere of activity. If this argument is valid, the following hypothesis can be derived:

***Hypothesis 3 (H3)***

*Interest groups should be more prone to europeanise their lobbying activities in cases of complex policy issues.*

Another central factor that merits attention regarding policy issue is its salience. The term is not easy to manipulate, as definitions abound (Klüver *et al.* 2015; see also Dür and De Bièvre 2007; Warntjen 2012). Keeping in mind that the salience of an issue may take the form of an exogenous phenomenon (Mahoney 2007, 2008; Wonka 2008; Klüver 2011; Culpepper 2011), the concept is understood here as an endogenous variable, caused by interest groups themselves (Kollman 1998). I understand salience as actor-centred and focus on the degree to which actors under study wish to dedicate time and energy to a policy issue. The actor-centred conception of salience should be distinguished from the policy-centred understanding of the term, which focuses on ‘the relative political attention some specific policy issue gains compared to other policy issues’ (Klüver *et al.* 2015, p.452). The latter body of works has shown that salience has a negative effect on interest groups’ ability to obtain their desired political outcome (although the effect of salience is not necessarily perceived as constant, see Klüver 2011). Pepper D. Culpepper, for example, demonstrates that where an issue is highly important to voters, policymakers are likely to exert a strong control over the policy-making process, thereby rendering the political mobilisation of corporate actors more difficult. By contrast, on issues considered of low salience, actors will have better chances of influencing the direction of policy (Culpepper 2011).

Coming back to the actor-centred definition of salience, I presume that interest organisations should be more prone to activate the supranational level if they think that an issue is of high salience. This assessment may be based, for instance, on the estimated policy impact or the political sensitivity of the issue (see Warntjen 2012). On the contrary, I presume that the degree of their involvement is likely to be much smaller (or even absent) in cases when the salience of a policy issue is considered low. Accordingly, the following hypothesis can be formulated:

#### ***Hypothesis 4 (H4)***

*The higher the salience of an issue for an interest group, the more likely it is to engage in multi-level lobbying.*

In addition to issue-related factors, the domestic embeddedness of interest groups in the institutional opportunity structure appears to hold promising prospects in explaining why some interests turn to the European Union. In line with works of Jan Beyers and Bart Kerremans, my assumption is that size and resources are not systematically relevant in explaining the Europeanisation of actors. In contrast, the ways in which organisations are integrated within their environment and their links to their domestic structures are crucial (Beyers and Kerremans 2007, p.464; see also Beyers and Kerremans 2012). Corporatism and statism, understood as an ‘institutionalized pattern of policy-formation’ (Lehmbruch 1979, p.150) are useful concepts to demonstrate the influence of domestic embeddedness on actors’ behaviour. Referring to the definition of Alan Siaroff, corporatism may be defined as: ‘[...] the co-ordinated, co-operative, and systematic management of the national economy by the state, centralised unions, and employers (these latter two co-operating directly in industry), presumably to the relative benefit of all three actors’ (Siaroff 1999, p.177). By contrast, statist policy-making processes are usually ‘[...] more closed to interest influence in policy formulation; more open to interest accommodation either through administrative discretion or self-regulatory arrangements; and more conflictual in interactive style, with decisions often political and generally taken at the top’ (Schmidt 1999c).

In her comparative study of the United Kingdom, France, Germany, and Italy, Vivien Schmidt highlights the explanatory power of domestic policy-making patterns and the question of institutional ‘fit’ (Schmidt 2006, p.103) in explaining adaptation of interest groups to EU integration. Situating Member States along a continuum from statist to corporatist patterns, she holds that groups from countries leaning on the statist end of the continuum (i.e. the UK, but mostly France) have more difficulties making use of the EU than actors from corporatist systems, such as Germany (and Italy, to a lesser extent). In statist systems, state actors control the policy-making process, choosing whether to consult or not, and with whom. French interests, and particularly business interests, have entered EU lobbying spheres relatively late, in comparison to their Dutch and British colleagues. What is more, their lack of experience,

combined with their high dependence on the French state posed major challenges to their EU-level activities. As Schmidt explains, 'French societal actors, used to lobbying à la française by relying on political arbitration late in the process rather than getting in early with solid technical information, have had a very steep learning curve with regard to the EU lobbying process' (Schmidt 2006, pp.110-111). By contrast, the German policy-making style is characterised by a culture of compromise, based on regular cooperation between the state and societal actors. Schmidt argues that such a decision-making culture, which stands closer to that of the EU than that of France or Britain, makes lobbying easier for German interest organisations (ibid., p.142). According to this perspective, multilevel lobbying therefore relies on the domestic interest intermediation configuration in which interest groups are embedded. Along these lines, Rainer Eising finds evidence that neocorporatist systems make the move to Europe of domestic interest organisations (in this case, business interests) more likely (Eising 2004, p.230). Therefore, it can be expected that:

#### ***Hypothesis 5 (H5)***

*Interest groups integrated in a corporatist interest intermediation system are more likely to make use of EU lobbying routes than groups integrated in a statist domestic environment.*

The second understanding of Europeanisation addressed in the thesis considers the causal effects of European integration on the positioning of domestic interest groups. Following Sophie Jacquot and Cornelia Woll, I assume that repetitive interaction in supranational venues produces a change of perception and viewpoint among national actors (Jacquot and Woll 2003). Jacquot and Woll explain that '[t]hese practices and political interactions happen as the actors go back and forth between the European level and the national, local, sectoral or institutional level on which they act (or wish to act), creating a context of reciprocal influence (Jacquot and Woll 2003, p.4).

Only a few studies demonstrate the influence of actors' interactions with the European Union on their cognitive frames. Laure Bereni shows in a contribution on the French movement for parity between men and women, that mobilisation at the European level in the early 1990s marked a turning point for domestic advocates of this cause, insofar as it contributed to the establishment of their 'symbolic frame' (Bereni 2004, p.46). Whereas feminist claims regarding



the low representation of women in leadership positions had not been a subject of societal concern in the 1970s and 1980s, the European dimension provided – to a considerable degree – for both the identification of the problem (or ‘diagnosis’) and the setting up of ways to tackle it (or ‘prognosis’). Likewise, in a study on the effects of European integration in the field of cross-border cooperation on modes of action, perceptions and discourses of local actors, Caroline Maury finds evidence of the usage of the EU as a cognitive frame. Engaged in a process of cross-border territory ‘invention’, local stakeholders drew a number of arguments from the European cognitive framework (Maury 2004, p.151).

Hence, European policy developments may affect the perception of domestic actors in certain circumstances. On this basis, I postulate that European referents may enter national debates and, in particular, have a discernible impact on the mindset of national interest groups. This Europeanisation process, I presume, is facilitated when actors are engaged in multi-level lobbying strategies. Accordingly, the following hypothesis is formulated:

***Hypothesis 6 (H6)***

*European referents are more likely to diffuse into national debates and influence the perception of domestic interest groups when these actors have engaged on the EU political scene.*

Table 1 below recapitulates the hypotheses and the variable to which they are related.

Table 1 Tested hypotheses and related variables

Hypotheses	Variables	Understandings of Europeanisation
<i>H1: Interest groups with more financial resources are more likely to display more engagement at the EU level.</i>	Resources	‘Strategic Europeanisation’
<i>H2: Business actors are more likely to turn to the EU than trade unions.</i>	Group type	
<i>H3: Interest groups should be more prone to europeanise their lobbying activities in cases of complex policy issues.</i>	Policy issue	
<i>H4: The higher the salience of an issue for an interest group, the more likely it is to engage in multi-level lobbying.</i>		
<i>H5: Interest groups integrated in a corporatist interest intermediation system are more likely to make use of EU lobbying routes than groups integrated in a statist domestic environment.</i>	Embeddedness in the national interest intermediation system	
<i>H6: European referents are more likely to diffuse into national debates and influence the perception of domestic interest groups when these actors have engaged on the EU political scene.</i>	Causal effects of European integration on the perception of interest groups in the context of national debates on legal immigration and competitiveness	‘Cognitive Europeanisation’

How well do these hypotheses correspond to the actual Europeanisation of interest groups in the case of the Blue Card directive? This question will be addressed later on, following the presentation of the research design adopted in this thesis (chapter 3) and a review of the historical context in which the Blue Card Directive took shape (chapter 4).

### 3 Methodology

This chapter presents the research design and procedures used to conduct this qualitative research. The dissertation is based on the case study method. Although criticised for its small-N design, this method is convenient ‘to gain detailed knowledge of the phenomenon under investigation’ (Collier *et al.* 2004, p.87). It is useful to investigate *why, how* and *to what degree* an actor has become europeanised (see, for example, Martinsen 2012, who focuses on the Europeanisation of a policy area but the same observation applies to the Europeanisation of actors). My thesis sets out to examine the Europeanisation of domestic economic interest groups in the course of the Blue Card Directive decision-making process on the assumption that a thorough explanation requires to account for both the variation of different explanatory factors and the examination of causal mechanisms.

The chapter is organised as follows. Section 3.1 introduces the research questions and presents the operationalisation of the independent variables. Section 3.2 describes the two research methods used in this thesis, that is, the use of hypotheses as starting points for a qualitative reflection and counterfactual reasoning. Section 3.3 focuses on data collection methods, highlighting their respective strengths and weaknesses. Finally, section 3.4 deals with data analysis.

#### 3.1 Research questions and operationalisation of independent variables

##### 3.1.1 Research questions guiding the thesis

As underlined in the introduction, the present research work sets out to examine the different Europeanisation patterns of national interest groups in the case of the Blue Card Directive policy-making process. In so doing, two facets of actor-centred Europeanisation are taken into consideration, namely the activation of the European level by domestic interest groups and the causal effects of EU policy developments on the positioning of domestic interest organisations in the context of national debates. The two sub-research questions may be formulated as such:

- 1) What forms did the activation of the EU level by domestic economic interest groups take in the course of the Blue Card policy-making process? How can variations of interest groups' orientation towards Europe be explained?
- 2) Did European referents on highly skilled immigration have a discernible impact on domestic interest groups' perception in relation to national debates on labour immigration policy? If so, what forms did it take? If not, what alternative factors can explain actors' shift of perception?

Regarding the first question, the dependent variable (i.e. what I wish to explain) is the degree to which interest groups are prone to include the European supranational level into their lobbying activities. The independent variables (i.e. the causes) correspond to a series of explanatory factors, related to resources, group type, policy issue (complexity and salience), and the domestic interest intermediation system in which actors are embedded. Each of these dependent variables relates to a hypothesis, formulated in chapter 2 (H1 to H5) and tested in chapter 5.

The second question deals with the causal effects of European integration on perceptions and mindsets of national actors. The ultimate aim is to clarify the weight of Europe in interest groups' shift of perception on the topic of labour immigration. The dependent variable is the cognitive frame of economic interest groups in the context of domestic debates on the subject. The tested independent variable relates to EU ideas and values that emerged in a sector where EU policy developed, namely highly skilled immigration policy. Alternative non-EU related independent variables – i.e. endogenous labour market drivers and global policy diffusion – are also taken onboard to explain the cognitive stance of domestic interest organisations. This amounts to contextualising actors' change of perception on legal immigration in order to single out EU integration as a factor from other explanatory factors. Whereas the first independent variable is linked to Hypothesis 6 (see chapter 2), alternative explanations come as a plan B in light of the absence of observed Europeanisation processes.

As noted above, each question is related to one or several hypotheses, which are discussed in chapters 5 and 6. Different research methods are applied to each set of assumptions. Whereas Hypotheses 1 to 5 are evaluated against actual empirical data, Hypothesis 6 is explored with

the use of counterfactual reasoning, followed by alternative non-EU related explanatory factors (see Table 1 for a recapitulation of the hypotheses guiding this thesis). Hypothesis testing based on actual data and the counterfactual thought experiment are presented below.

### 3.1.2 Operationalisation of independent variables

This section provides an account of the ways in which I operationalised the different explanatory variables presented in chapter 2.

Regarding *financial resources*, my attempt to evaluate the budget that each actor dedicated to the Blue Card Directive policy process was quickly aborted, as the information was not public, and most interlocutors did not have the figures at hand, or were reluctant to communicate them to me. An alternative could have been to take the number of employees working in each organisation and to correlate it with the overall budget (as in Beyers and Kerremans 2007), but a number of interviewees did not wish to disclose this information either. Finally, the option I adopted to examine the influence of financial resources on the tactical repertoire of domestic interest groups consisted in focusing on staff size. Based on the assumption that financial means do translate (among other things) into staff size (in the U.S. literature on interest groups, see for instance Schlozman and Tierney 1986 and Berry 1989), I utilise this resource-related variable to explain discrepancies in actors' inclination to turn to the European Union.

*Group type* was operationalised along a divide between business actors and trade unions. The idea was to underscore variations in Europeanisation patterns by considering the characteristics of members of each category of actors.

*Complexity* was measured empirically by looking at the technicality of the issue (see chapter 2 for a more elaborate presentation of the notion). Technicality was operationalised as the extent to which domestic interest groups took part in consultations organised by European institutions. The idea behind this was that EU institutions would be particularly open to external expertise on highly technical issues, considering that they did not possess the necessary knowledge internally to forge their position.

I operationalised *salience* by considering the actors' perception on the issue at stake (see chapter 2 for a detailed presentation of the notion). In cases where interest organisations

attached great importance to the issue, I considered the salience factor as highly relevant to explain Europeanisation dynamics. By contrast, salience was considered of little use when interest groups showed meagre (or no) particular interest for the issue under discussion.

*Domestic embeddedness* was addressed by looking at the interest intermediation system to which national actors belonged, namely corporatism and statism. Corporatism is defined as a socio-political society where the State is viewed as coming from the free articulation of civil society interests. By communicating societal concerns to policymakers, these actors increase the probability for these issues to be taken into account and add democratic legitimacy to policy-making (Rudzio 2006, p.56; see also Schmidt 2015, p.25). The statist system of interest intermediation, by contrast, is characterised by the predominance of a strong and unitary government in the public arena without much participation of civil society actors in policy-making (see Schmidt 1999b, 1999c; Togman 2002).

Lastly, the operationalisation of the *cognitive aspect* of actors' Europeanisation followed a causal logic. In an attempt to unveil the effects of EU integration on national actors' cognitive frames, I adopted a three-step approach. For each country under investigation, I first analysed the evolution of the national debate on legal immigration policy, including the highly skilled dimension. In a second stage, I explored the various positions of economic interest groups on the topic. The last section evaluated the degree to which these positions were impregnated by European integration developments, or what I called 'cognitive Europeanisation'<sup>33</sup>.

## 3.2 Research methods

### 3.2.1 Hypothesis testing and qualitative research design

Chapter 5 is based on the testing of hypotheses against material collected in the field. However, it is important to note at this point that the thesis does not engage in formal hypothesis testing per se. Rather than following a confirmatory strategy, these 'hypotheses' are utilised as structural elements of the research.

My choice of strategy is motivated by both scientific and practical reasons. On the scientific side, working on a loose hypothesis-based research design enabled me to concentrate on

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<sup>33</sup> Beyers and Kerremans define the 'cognitive aspects of Europeanisation' as '[...] a disposition or a general political orientation which is coloured by the impact of Europe' (Beyers and Kerremans 2007, p.461).

collecting as much data as possible on a set of assumptions while keeping an exploratory mind-set. By so doing, I arguably limited the risk of diluting my efforts into a wide-range endeavour that may have provided no scientific results, but I also remained open to new elements that appeared along the way. The practical explanation has to do with the feasibility of the method. A formal exploratory research design would have required significantly more time, but above all, a better access to information and a higher variety of sources in order to gain a more complete picture of the topic under scrutiny. However, these conditions were not met in the present case study.

Some argue that this method is more compatible with a quantitative than a qualitative research design (e.g. Kirk and Miller 1986, p.17; Malterud 2001, p.484), establishing a direct connection with statistics-based research and the question of generalisability (e.g. Flyvbjerg 2006, p. 229). Qualitative research, they claim, is not designed to 'test' or 'prove' a hypothesis but, rather, to investigate a field. In their view, hypotheses can emerge from qualitative research findings, but the actual testing of these hypotheses requires a quantitative research design (see discussions on Researchgate 2017 for instance). In fact, research tradition in qualitative approaches prohibits the use of hypotheses testing. Keeping these arguments in mind, my understanding of 'hypothesis testing' departs from the specific procedures that are linked to it in part of the literature.

I believe that the testing of hypotheses may also be utilised in qualitative research, as long as the researcher is clear about how he/she proceeds. Instead of embarking on a falsifiable logic (as a number of quantitative contributions do), I utilise 'hypotheses' as a way to structure my research and to carry out an in-depth discussion on the subject under investigation. Although this method implies the formulation of preliminary assumptions, it does not limit the discussion within the confines of a pre-established rigid framework. To those who claim that this method is problematic, given that these assumptions arise from *a priori* thinking, I answer that we all engage with 'hypothesis testing' in one way or another, although we may avoid to use the expression. In fact, all scholars have assumptions on their research topic. Once we have our research question, we do have at least a feeling or a vague idea of what we will find. In my view, making these postulates explicit is not a concern. Furthermore, my expectations result from my initial personal reflection and the conclusions of past academic contributions

on the Europeanisation of interest groups, but certainly not from my own findings. I therefore do not share the idea that '[...] in order to test a hypothesis the investigator must already know what he or she is going to discover' (Kirk and Miller 1986, p.17). Finally, I do not conceive 'hypothesis testing' as being systematically linked to replicability and generalisability. In sum, my conception of 'hypothesis testing' is rather broad, compared to a more 'classic' scientific culture.

### 3.2.2 Hypothesis testing based on counterfactual reasoning

Another method utilised in this study is counterfactual analysis. Mainly used by historians and international relations scholars, counterfactual reasoning has been rarely employed in Europeanisation research until today. To my knowledge, no scholar has yet placed the counterfactual method at the core of his/her argumentation. Researchers who utilised it, have done so as a secondary strategy (see, for example, Haverland 1999; Checkel 2001a, 2001b; Levi-Faur 2004, although the latter author does not use the term 'counterfactual'). My impression is that counterfactuals have been mainly used to confirm research results produced via other methods (i.e. process tracing<sup>34</sup>).

The academic community is divided on the value of this endeavour. A number of researchers have called for the use of this research method in order to strengthen claims on EU-induced changes and avoid the overdetermination of Europe when explaining national changes (e.g. Schmitter 1999, pp. 296-297; Checkel 2001a, pp.193-194; Anderson 2003, p.48; Haverland 2005, p.1; Vink and Graziano 2007, p.16). Others have been more sceptical on the value of this method. According to Simon Hix and Klaus H. Goetz, '[c]ounterfactuals might be desirable, but, in this case at least [the domestic political institutions and politics of late west European entrants to the EU and of Norway and Switzerland], they can be no more than interesting, though ultimately inconclusive, thought experiment' (Hix and Goetz 2001, p.21).

What is counterfactual reasoning? Max Weber defines this technique as 'the mental construction of a course of events which is altered through modification in one or more

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<sup>34</sup> Richard Ned Lebow underlines the complementarity of process tracing and counterfactuals. He writes: '[Process tracing] works [...] only when there is enough evidence to document the calculations and motives of actors. Even when such evidence is available [...] it may still not be possible to determine the relative weight of the several hypothesized causes [...]'. Although this is difficult to do, counterfactual reasoning can help determine the underlying assumptions behind research interpretations (Lebow 2007, p.159).



conditions' (Weber 1905, quoted in King, Keohane and Verba 1994, p.11; on Weber's reflection on counterfactuals, see also Lebow 2015). In simple terms, '[c]ounterfactuals are causal arguments about events that did not occur [...]' (Anderson 2003, p.47). They may also be defined as "'what if" statements usually about the past' (Lebow 2007, p.154). This thought experiment allows the researcher to introduce variation of the independent variable that does not otherwise change in the real world.<sup>35</sup> This is particularly valuable in small-N research on Europeanisation processes, as it enables us to isolate the causal impact of the EU and to identify alternative explanatory factors of domestic change (see Haverland 2003, p.204). In Europeanisation studies, such as this one, the counterfactual thought experiment consists in imagining what would have taken place in the absence of Europe (or in the absence of European integration in a particular policy area). If the EU effectively played a part in domestic actors' cognitive changes, then the absence of Europe (or European involvement) should produce a different scenario. Conversely, if the story line is identical to what is observed in the presence of Europe, the importance of EU factors in explaining these changes is seriously jeopardised.

In the thesis, I used a counterfactual analysis to assess the causal effects of European integration in highly skilled immigration policy on domestic interest groups' shift of perception in the context of national debates on the subject, and more generally on legal immigration. In so doing, I embarked in a rather ambitious endeavour. As Richard Ned Lebow underscores: 'There is a consensus [among historians and social scientists] about what constitutes a good counterfactual, but there is a common recognition that it is extraordinarily difficult to construct a robust counterfactual [...]' (Lebow 2007, p.163; see also Tetlock and Belkin 1996, p.3). Recommendations of Tetlock and Belkin (1996) provided helpful guidelines in my attempt at increasing the value of my counterfactual argumentation. I focused on the most useful ones in the context of my thesis (the 'logical consistency', 'statistical consistency' and 'projectability' criteria were left aside).

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<sup>35</sup> This is not to say that counterfactual reasoning is the only way to increase variation of the independent variable. One can also compare EU-countries with non-EU countries (see Haverland 2005, p.6). As regards highly skilled immigration policy, it would mean including either historic immigration countries (United States, Canada, New Zealand, Australia) or a singularly 'non-immigration country' such as Japan. However, comparing these countries with Germany, France, and Luxembourg would probably be of little use, considering the issue of comparability (on the importance of 'comparability' to isolate the effects of the EU from other variables, see Haverland 2005).

*Clarity*, the first principle, prescribes that the independent and dependent variables be specified and circumscribed. Said differently, one has to be clear about what one holds constant and what varies. I assume that European referents in the area of highly skilled immigration policy (independent variable) played a part in the change of perception of national interest groups as expressed in relation to domestic debates (dependent variable). This expectation rests on the idea that, although the involvement of the EU in this area was relatively modest at the time (the Blue Card Directive being the first EU legislation adopted in this field), it may have influenced actors' understanding since a number of Member States were facing similar challenges (i.e. difficulty in attracting and retaining highly skilled profiles from Europe and beyond). Would the absence of European involvement in the area (a speculative variation of the independent variable) have produced different results on the dependent variable? This is what the counterfactual analysis sets out to investigate.

In our case, delineating the independent and dependent variables was not a major issue, as expected changes were relatively limited in scope and could arguably be the only two variables at play. In this context, isolating channels of influence (Tetlock and Belkin 1996, p.19) was easily done, as my counterfactual reasoning consisted in presuming the absence of a single cause that was rather well circumscribed and poorly interconnected with other political systems (as shown in chapter 4, some Member States were particularly vigilant not to let initiatives of the EU on legal immigration policy expand). I could therefore easily remove the EU from the picture without having to deal with 'confounding' variables<sup>36</sup>, examine changes taking place at the domestic level, and reintroduce the European variable at a later stage.

*Historical consistency*, also called the 'minimal-rewrite rule', emphasises the need to '[s]pecify antecedents that require altering as few "well-established" historical facts as possible' (Tetlock and Belkin 1996, p.18). Hence, scholars should refrain from rewriting history as much as possible. On these grounds, I limited my counterfactual analysis to what would have occurred in the absence of the Blue Card policy-making process. I could have expanded my research scope by analysing, for example, the implications of the non-existence of the European Union in its entirety, but this would have led me to embark on a large-scale historical reconstruction.

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<sup>36</sup> 'Confounding' variables derive from the 'ripple effects that alter the values taken on by other potential causes in the historical matrix' when handling an independent variable that is interconnected with other systems. These variables complicate the thinking process considerably (Tetlock and Belkin 1996, p.19).

Moving away from consistency with established historical facts and therefore increasing variability would have rendered my study more conjectural and therefore more questionable. Furthermore, I could not see no point in applying a wide historical rewriting to a study dealing with a specific policy issue. My perspective would have most probably been different if I had investigated the Europeanisation of a whole policy sector or an entire country.

*Consistency with well-established theoretical laws* refers to the need to consider '[...] theoretical constraints on the connecting principles we use to link antecedents and consequents' (Tetlock and Belkin 1996, p.25). Just as scholars should be mindful of clarity and historical consistency, they should also locate their counterfactuals within well-established theoretical frameworks. The difficulty here resides in the fact that these theoretical 'laws' are difficult to find in social sciences, some even say that they are none-existent (see Lebow 2000, p.578). There is disagreement on what counts as valuable 'theory' for evaluating counterfactuals. Despite this problem of theoretical heterogeneity, I share Tetlock and Belkin's view, according to which '[c]onsistency with *well-established* theory is a reasonable standard for gauging the plausibility of counterfactuals [...]' (Tetlock and Belkin 1996, p.27; italics in original). The counterfactual analysis carried out here is based on a sociological conception of Europeanisation, and more particularly on the idea that the EU influences the values, mindset, and practices of national actors (see chapter 2 for a description of this approach).

### 3.3 Data collection

The data collected to test the hypotheses presented in chapter 2 came from three main sources, namely primary documents (i.e. official publications from European and international institutions, interest groups' position papers and newsletters, press articles), secondary documents (i.e. historical accounts on legal immigration policy), and interviews<sup>37</sup>. While secondary data enabled me to situate my analysis within a wider historical frame, the analysis of primary documents proved helpful to reconstruct the Europeanisation dynamics of actors and locate gaps, especially ahead of meeting my interlocutors. With time, I focused

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<sup>37</sup> Arguably, interviews are primary sources but not primary documents. They may be turned into primary documents when they are transcribed but they first take the form of oral narratives. This is why they are presented separately here.

increasingly on the collection of empirical material via interviews. Information retrieved via this means constitutes the backbone and originality of the present work.

### 3.3.1 Primary and secondary documents

As mentioned above, part of the empirical material for this research came from secondary and primary sources. Academic contributions on the evolutions of legal immigration policy in the three countries under study were relatively easy to find online by using a set of key words in a well-known internet search engine, as well as via the web interface of the National Library of Luxembourg (BNL).

As far as my search is concerned, I encountered no major difficulty in accessing official documents from the European Commission, the European Parliament and international organisations (i.e. OECD, ILO), including Directive proposals and official reports on highly skilled immigration. In contrast, access to documents from the Council of Ministers proved laborious to find, considering the scarcity of documents available to the public. The method I used consisted in extracting the references of the documents I was looking for (e.g. the minutes of Council discussion on the Blue Card Directive proposal) from past academic contributions on the Blue Card Directive and, from there, to retrieve the documents directly from internet. As for press articles, I encountered no major hurdles as regards the German and French press via the BNL web interface. However, my research results were scarce regarding the Luxembourgish press. A plausible explanation is that the topic of highly skilled immigration has not stood high on the national political agenda and that the Blue Card Directive specifically stirred very little interest among the political and economic elite, as well as in the public opinion. Arguably, the scarcity of information mirrors this situation.

Turning to primary documents of European peak organisations (i.e. ETUC, BusinessEurope, CGPME), the situation differed according to the type of document. As may be expected, official position papers and press releases were easy to find. By contrast, I did not manage to get hold of internal documents (i.e. minutes of meetings, internal reflections on the Blue Card Directive). To find these sources, I would have needed the assistance of a person who was already working for the organisation in question at the time of discussions on the Blue Card Directive proposal, who had taken part in discussions on the subject and who had kept the documents. This did not prove possible.

On the side of national interest groups, access to data differed according to the type of organisation and to the desire of my interlocutors to provide assistance. Discrepancies between employers' organisations and labour unions were most explicit in the German case. Overall, the DGB provided a much better access to its work than the BDA, the ZDH or the DIHK. The DGB website offered detailed accounts of its current and past positions. Hence, I was able to find valuable documents dating back to the 2000 decade on the positioning of the DGB regarding both national and European legal immigration policy developments. Furthermore, my interlocutor at the DGB pointed to additional documents produced by members of the DGB. The situation was very different on the side of employers' organisations. First, the content of their respective websites (at least the part accessible to the public) very much reflected their latest concerns and hardly included any archive. Against this background, access to their position papers and to some of their newsletter was often easier via search engines than through the 'search section' of these websites. However, for documents that could not be retrieved via this method and still existed<sup>38</sup>, the only alternative way was to go through sources who had access to the internal website of the organisation. Access to ZDH information was very much locked. It proved to be almost as difficult with the BDA although a bit more data was eventually found.

Data collection in the French case was quite straightforward, as legal immigration policy (and especially highly skilled immigration) was neither a key concern for labour unions nor for employers' organisations. I therefore knew from the outset that economic interest groups had produced little on the subject and that the information I needed would primarily come from interviews (and not from written documents). The same observation can be made for the Luxembourgish case, particularly for the Fedil, which did not mobilise on the topic of highly skilled immigration policy. The dearth of documentation I found from the UEL leads me to believe that most of these publications are limited to a restricted audience. This is hardly surprising, considering that the topic of highly skilled immigration and the issue of finding

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<sup>38</sup> I was told in numerous occasions that the digitisation (i.e. the process of converting information into a digital format) of these organisations' activities in the late years 2000 led to losses of part of the documentation, including those produced around the time of discussions on the EU Blue Card (for the German case, interviews 7 and 12). What is more, it appears that most of these structures do not possess a centralised documentation centre responsible for digitising and systematically configuring documents.

the right profiles to ensure the competitiveness of the Luxembourgish economy have mostly been discussed in closed circles.

The limits of relying on representatives of interest groups to access data are easily imaginable. The most difficult step in this endeavour is to establish trust with a person who does not know you and who has, a priori, no interest in giving a hand to a PhD student (there is no financial reward, nor external gratification in this case). Trust is all the more important, given that internal documents are often considered sensitive. The person who communicates them with someone who does not belong to the organisation takes a certain risk and usually carefully weighs the pros and cons prior to doing so. For most of my interlocutors, helping an unknown researcher that they had never met in person (contacts were primarily established by phone and email) did not count for much. As for myself, the fact that I had no alternative to retrieve the information I needed put me in a somewhat difficult situation. After much efforts and time looking for alternatives, I had to realise at several occasions that I would never be able to find what I was looking for and that I had to move on.

### 3.3.2 Semi-structured interviews

The empirical material on which this research is based comes from a large part from a series of semi-structured interviews, conducted in Brussels, Berlin, Paris, and Luxembourg, from January 2014 to April 2017. This primary source deserves a dedicated section, given its importance in the data collection process.

#### 3.3.2.1 *Interview format*

Out of the 46 interviews carried out in the context of this research, 22 were phone interviews and 24 were conducted face to face. Each interview lasted on average one hour and followed a semi-structured format. The latter allowed a combination of structured questions in order to gather comparable data (especially on the degree of supranational lobbying activities of the different actors under study) and open-ended questions to gain detailed knowledge (see King 1999). Structured questions focused on factual data and served two main purposes. First, they provided a useful frame for interviewee to initiate the recollection process and organise his/her responses. Whereas some persons could provide a logical, well-structured account of the Blue Card decision-making process and of the actions they carried out, most of my interlocutors

preferred to adopt a more systematic question-answer format. In some cases, the interview initially followed a detailed schedule and subsequently developed into a more open discussion at the initiative of the interviewee. Second, these preliminary questions enabled me to assess the degree to which my interlocutor could recall the Blue Card episode and to adapt later questions to the situation. I tended to dedicate more time to this first part of the interview when the person had detailed knowledge on the subject, given the clear connection between this information and my hypotheses. By contrast, I turned to open questions at an earlier stage when the memory process was more arduous or when a person did not wish to answer specific questions. However, the use of open questions to gather evaluative comments proved most insightful as the counterpart of the preliminary fact-based questions. More than once, at this point of the interview, the interviewee became a true participant in my research. Rather than answering my questions in a passive manner, he/she suggested additional research paths to explore.

### *3.3.2.2 Selection of interviewees*

The choice of interlocutors started towards the end of my first year dedicated to setting up the theoretical framework of my research, and ended a month or so prior to the completion of my thesis. The main question I had in mind was: Who has the information I need? As a first step, I consulted organisational charts of major European and national employers' organisations and labour unions to identify the head of department dealing with migration issues, or social affairs more generally. The reason for such a focus was essentially practical, the objective being to get my foot in the door. Once I had a first contact in the organisation – preferably high in the hierarchy – and could count on his/her assistance, the selection of relevant interlocutors was greatly facilitated.

In ideal cases, my first contact person had been in office for many years and could provide me with first-hand data and names of other relevant persons for my research (e.g. representatives of the DGB, the UEAPME, the Fedil, the OGBL). In other instances, the person capable of answering my questions had changed department (or directorate) but was still working for the same institution and could therefore be easily located (this was particularly true regarding EU institutions). Yet, most often, those who had dealt with the Blue Card dossier were either working elsewhere (e.g. the former MEDEF and Bitkom representatives, a former member of

the BDA team, ex-Director of the UEL) or had retired (e.g. the rapporteur of the Blue Card Directive proposal in the European Parliament). In one instance, the person I was trying to reach was deceased.

In parallel to contacting heads of departments, I did my own selection of interviewees, mostly online. Reports of national interest groups were particularly helpful in this regards, as the name of the author(s) usually appears in the document (it is not the case for official documents from EU institutions). From there, I gathered biographical elements on these persons in order to confirm that they were indeed relevant interlocutors. To do this, social networking websites proved particularly useful. I went through this process to find former advisors of the BDA, the former Head of the 'Education Policy and Labour Market' Department, Bitkom, as well as the ex-Director of the UEL.

### *3.3.2.3 Data-collection process*

As a first step, I contacted EU institution officials in order to get their views on the Blue Card policy-making process and to assess the degree of interaction they had had with interest groups on this particular issue. The exercise was relatively easy. Most of the persons who had dealt with the dossier in the European Commission, the European Parliament, and the Council Secretariat had changed positions, but had remained either within the same house or in the European institutional sphere. As such, they could be easily located via the 'Official Directory of the European Union', either its annual editions or its up-to-date online version.<sup>39</sup> Much to my satisfaction, most people I contacted were keen to help and responded positively to my interview requests. Additionally, their contribution to my research proved extremely valuable, given their long-term outlook and their vast expertise.

In parallel, I also turned to European umbrella organisations of labour unions and employers, more specifically persons responsible for migration issues or social affairs (depending on the internal organisation of the structure). The identification of the relevant persons was relatively easy, considering that the name and contact details are indicated on the websites of these organisations. Further, most of these persons were already at their respective post at the time

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<sup>39</sup> The latest online version of the 'Official Directory of the European Union' may be found under: <http://europa.eu/whoiswho/public/>



of negotiations on the Blue Card Directive proposal. These early contacts allowed me, first, to see whether these different EU-level associations had taken part in discussions on the EU Blue card and, if so, to identify members who had been most vocal on the dossier. On the basis of information gathered in this initial phase, I contacted the Brussels-based antennas of national interest groups in order to identify the person(s) responsible for the Blue Card dossier at the time. For the German case specifically, a document presenting the business organisations present in Brussels proved a valuable starting point as well (Deutsche Wirtschaftsverbände 2009).

This endeavour turned out to be extremely difficult for at least three reasons. First, contrary to peak EU organisations, the turnover in the liaison offices of national interest groups is relatively high (generally every 3-4 years). Consequently, the person(s) responsible for the dossier had taken on new positions elsewhere. In the best-case scenario, they had remained within the same organisation and I could trace them back in their capital city. In the worst-case scenarios, they had left the organisation or had retired. In the latter case, I resorted to on-line telephone directory to try and locate these persons. As for persons who were now working elsewhere, very few of their former colleagues agreed to indicate where I could find them (a notable exception was my French interlocutors from the MEDEF). Here, I used every possible means at my disposal: internet search engines, the business- and employment-oriented online platform LinkedIn, and personal acquaintances. Identifying relevant interlocutors was not the only hurdle on my way.

A second source of difficulty was that I relied on the goodwill of these people to a considerable degree. I found extensive support from people who believed in the importance of research and from those who were interested in the topic of my thesis. By contrast, most of those who did not share these principles adopted a closed-door policy. One way of circumventing the problem was to contact the head of office or director of a particular department or service. In cases where the latter accepted to take over my interview request and asked the member of his/her team to help me, saying 'no' was more difficult. Although this method allowed me to meet persons who had been initially reluctant to give me a hand, it did not produce the best results. The quality of information was much higher when I was introduced by a colleague or, even better, by a friend. In this ideal case, my interlocutor was well-disposed and willing to

invest time and energy in helping me find relevant data. The desire to help was necessary but not sufficient to acquire useful information.

A third problem I came across had to do with memory loss or to a vague remembrance of lobbying activities carried out during the Blue Card Directive policy process. The quality of the data obtained depended extensively upon the ability of the interviewer to remember facts (this issue is common when relying on interviews, as remarked in Kothari 2004, p.17). Several times, I was told that my research topic was 'history' and that no precise recollection was possible on such an 'old' dossier. This was all the more so given that my interlocutors had generally not kept records of their past dossiers and that most of the organisations they worked for did not have a documentation centre responsible for archiving documents and preserving the memory of the institution. In this context, data collection proved to be a time-consuming exercise, which required a great deal of perseverance and determination.

This said, relying on semi-structured interviews offered a series of advantages as well. The two most important ones are underscored here. First, when the three key conditions were met – identification of the relevant interlocutor, desire to help, and good memory of past events – this method enabled me to gather in-depth material (which I would not been able to collect otherwise). Second, the semi-structured format brought valuable flexibility in my research endeavour. Besides making room for in-depth questions, it also allowed spontaneous variations, which, at times, opened new research paths. Occasionally, I managed to catch the interviewee off-guard and to gather additional information (this would not have been possible via a mailed questionnaire for example).

#### *3.3.2.4 Issue of trustworthiness*

As a number of qualitative scholars before me, I was confronted with the question of how to improve the trustworthiness of information, especially when conducting interviews. My choice of semi-structured interviews was motivated by the flexibility it provides to explore the complexity of a topic. I certainly did not aim any kind of replication of my research. Rather, I was concerned with improving the validity of my data (rather than the reliability<sup>40</sup>). The

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<sup>40</sup> 'Reliability' refers to replication and consistency (Saunders *et al.* 2016, p.202). It may further be defined as 'the degree of consistency with which instances are assigned to the same category by different observers or by the same

concept of 'validity' may be defined in the following terms: 'An account is valid or true if it represents accurately those features of the phenomena that it is intended to describe, explain or theorise (Hammersley 1992, p.69). In order to improve the validity of my data, I put in place a series of strategies, which I describe below.

My attempts at increasing the validity of information collected provided mixed results. Following a suggestion found in the academic literature (e.g. Brink 1991), I sought to implement systematic respondent validation of my transcripts. I initially believed that this technique, which gives interviewees the ability to comment on data and to amend it if need be, would provide additional validity to my research data. This proved unfeasible in practice, as my interlocutors could not dedicate time to this exercise. Recording the interviews and listening to them several times to remain true to interviewee's narrative was a more efficient way to go.

Apart from this, I also sought to make use of data triangulation – or the use of 'more than one source of data and method collection' (Saunders *et al.* 2016, p.207) – whenever possible. As such, I tried to utilise various data sources and to get interviews from several persons who had taken part in the same events. This was no easy task, as most of the information provided by my interlocutors could neither be found in past academic contributions, nor in the press nor in official reports. However, I did manage to cross-check certain data by asking similar questions to different interlocutors. I do not claim that this approach provided definitive evidence of the validity of my data. Nonetheless, it did allow me to increase validity and in some cases, to dig out contradictory accounts.

### **3.4 Data analysis**

To analyse the information I retrieved from primary and secondary sources, I created my own data management tool based on a 'wiki' web interface. A wiki is a web-based collaborative information technology (IT) platform that enables collaborative work, the most well-known wiki platform being the online encyclopaedia Wikipedia. Yet, my motivation to use this tool primarily came from the ease to store and organise information on multiple levels by

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observer on different occasions' (Hammersley 1992, p.67). Similarly to Hammersley (1992), I doubt that this concept, based on the standardisation of data collection instruments, applies to qualitative research methods.

establishing connections (known as ‘hyperlinks’) between references, keywords and sections of documents. This proved particularly useful as the volume of data increased. The handling of interview transcripts is a good illustration of this. The first step consisted in creating a page for each interview. Once this was done, I linked the different parts of an interview to other interviews or themes (for which I also created separate pages). At times, I also uploaded documents onto the wiki platform that had been mentioned by an interviewee and linked them to the relevant pages (either of an interview or of a pre-defined theme). In other cases, I simply stored an URL to record the direct access to the documents I needed.

The use of this tool demanded regularity and consistency. Creating the links, figuring out relevant categories and gathering data took some time. Yet, once the backbone of the wiki was set up and I got used to the simple wiki language syntax, the exercise became easier and less time consuming. The value of the wiki became evident during the writing phase of my research project. Benefits included finding back the right documents and information quickly, being able to sort ideas along major themes, and rarely needing to reread a document. The fact that the wiki is a free open source software was an additional advantage because it did not require financial resources for its implementation.

Like any research tool, the wiki has its limits as well. A criticism may be that by fragmenting information, the researcher risks to lose sight of the general context and, regarding interviews, of the narrative flow (Bryman 2008, p.553). This cannot be denied, although the likelihood that it occurs may be limited if one is conscious about it. Further, the different ways in which a software solution is used enter into the equation as well. I viewed my wiki as a facilitating device for the management of documents and the creation of links between them and certainly not as a pool of information from which my thesis would emerge. The utility of the wiki also depended on the nature of the data. For instance, whereas it made sense to include interview transcripts in the wiki, the use of in-depth historical accounts was handled more efficiently by incorporating them directly into the thesis. In sum, the tendency of the wiki to fragment the information was compatible with a context-based reflection of the topic under investigation.

## **4 The Blue Card Directive in context: historical outlook and main features**

### **4.1 Introduction**

Understanding the Blue Card policy process presupposes to dig into its history. As such, this chapter provides background information on legal immigration over time and more specifically on the circumstances surrounding the shaping of the Blue Card Directive. The first section commences by going back over the evolution of immigration in Europe from the post-World War II period until today. As highlighted below, the very idea of incorporating foreign workers into national economies went through different stages, evolving from a relative openness vis-à-vis so-called ‘guest workers’ in the post-Second World War era, to more restrictive labour policies following the economic crisis of the early 1970s. In contrast to earlier conceptions of immigration, the latter paved the way for the utilitarian idea of ‘managed immigration’. The context being set, the second section focuses on the so-called ‘Blue Card’ Directive, named after the US ‘Green Card’. It does so by retracing the policy process, highlighting the tumultuous waters which somewhat troubled the endeavour of the European Union to establish a harmonised European framework for highly skilled third-country nationals.<sup>41</sup> As shall be shown, the Directive adopted by the Council of Ministers on 25 May 2009 departed, to a considerable degree, from the initial ambitions of the European Commission, as set out in its 2007 Directive proposal.

### **4.2 The emergence of legal immigration on the European political agenda**

**4.2.1 Europe: from a continent of emigration to a destination for migrants**  
From a historical lens, it appears that the experience of Europe in the field of immigration is relatively new. In comparison with so-called ‘traditional settlement countries’ – such as the United States, Canada or Australia – which have defined themselves as lands of immigration for their entire existence, European countries have mostly witnessed dynamics of emigration. Between 1820 and 1914, around 60 million Europeans established themselves in the ‘New World’ (O’Rourke 2003, p.2). International migration rose steadily during this ‘age of mass

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<sup>41</sup> It should be stressed that the Blue Card Directive targets third-country nationals, that is non-EU nationals. As such, it does not deal with the mobility of EU citizens.

migration' amounting to roughly 300,000 annual departures from 1846 to 1876 and reaching more than a million by the year 1900 (Hatton and Williamson 2002, p.9). This being said, levels of emigration differed greatly from one country to another. Whereas Great Britain (and especially Ireland) was the main supplier of emigrants in the early 1820s, the second half of the 19<sup>th</sup> century saw a rise of candidates from Germany and Northern European countries.<sup>42</sup> In the 1880s, as emigration declined in these regions, the phenomenon developed in the Southern and Eastern parts of Europe. This decade witnessed the rise of emigrants coming from Italy and the Austro-Hungarian Empire, prior to the expansion of migration movements from Poland, Russia, Spain and Portugal from the 1890s (Hatton and Williamson 2002, p.10). In the period following the Second World War, the composition of international emigration, especially to the United States, gradually shifted from a predominantly European pool to Asian, Central American and Caribbean sources of emigration.<sup>43</sup>

Following the Second World War, in the 1950s and 1960s, Europe became a destination for migrants in pursuit of opportunities to improve their living conditions. Although immigration in Europe was certainly not exclusively driven by economic concerns<sup>44</sup>, '[...] the impetus and development of migration in Europe traces its history to labour migration' (Menz and Caviedes 2010, p.1). In a context of post-war reconstruction and an expanding economy, the demand for relatively low-skilled workers in industrialised European countries was high. Countries such as France, Germany, Luxembourg, the United Kingdom, Belgium, the Netherlands were keen to welcome cheap, low-qualified foreign labour (Hollifield 2002, p.134). During the *Trente Glorieuses*<sup>45</sup> of the post-war economic upturn, most migration streams were institutionalised via two main channels, namely so-called 'guest worker programmes' (*Gastarbeiter* in German) and post-colonial migration (Appleyard 2001). Foreign workers came from Southern Europe (i.e. Italy, Spain, and Portugal). Germany, for instance, negotiated economic agreements with Turkey and former Yugoslavia. France turned to its former North

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<sup>42</sup> Given that the number of French nationals emigrating was extremely low, France was not concerned by this emigration phenomenon (see Hatton and Williamson 2002, p.10).

<sup>43</sup> To illustrate this point: Whereas over 50 percent of all migrants settling in the United States were Europeans in the 1950s, their share represented 5.7 percent in the 1990s (Hatton and Williamson 2002, p.13).

<sup>44</sup> One can mention family migrations, asylum and refugees.

<sup>45</sup> Initially used by the French demographer Jean Fourastié in his book *Les Trente Glorieuses, ou la révolution invisible de 1946 à 1975* (Fourastié 1979), this expression designates the French economic boom from 1945 to 1975. Its use here goes beyond the French case to refer to economic expansion of European economies following the Second World War.

African colonies whereas the United Kingdom made use of its historical ties with the Indian sub-continent. It was assumed that these migrants, once the reconstruction period was over, would go back to their homelands. However, as years passed, it became clear that these guests were here to stay (Rogers 1985). By the late 1970s, alleged temporary migration had turned into permanent settlement. To paraphrase Andrew Geddes, the guests eventually stayed (Geddes 2003, p.15).

Labour migration declined dramatically following the 1973 oil crisis and the subsequent rise of the price of oil. The 'first oil shock', accompanied by rising unemployment and inflation, marked the official cessation of guest-worker programmes and the launch of more restrictive labour migration policies. While the stop of economic immigration in most European states did not entirely put an end to well-established transnational networks (Hollifield 2002, p.134), it geared the focus of national governments away from labour concerns. Authors such as Andrew Geddes have argued that '[...] the decision to restrict labour migration did not lead to the end of immigration [nor did it] lead to the end of labour migration. Rather, the labour migration channel was narrowed to allow mainly highly-skilled immigrants to enter [...]' (Geddes 2003, p.17). In its 1997 Concise Report, the United Nations Secretariat noted a growing negative outlook on migration. Whereas six per cent of governments expressed concerns on high immigration in 1976, the percentage reached 19 in 1983 (United Nations Secretariat 1997, p.24). Against this backdrop, the 1970s and 1980s in Europe saw the prevalence of family reunification, as immigrants who had arrived to take on work in prosperous European countries in previous years were joined by their relatives. These family members were mostly women, younger and older people (Geddes 2003).

The relative absence of official positioning vis-à-vis economic immigration persisted throughout the so-called 'asylum seekers phase' of the 1990s (Diez Guardia and Pichelmann 2006, p.5), or 'third wave' of migration (Geddes 2003, p.17). In contrast to labour migration policies, which were motivated by post-war reconstruction and a booming economy, the refugee scheme – as set out in international law after the Second World War – rested on ideas of moral equality, human rights, and more specifically on the protection of the rights of people facing persecution. Postures vis-à-vis asylum-seekers coming to Western Europe evolved in the 1980s and 1990s. During the Cold War, the people who escaped communist regimes were

generally well perceived by their hosts, as they brought justification to Western European democracy and liberal economy. The dissolution of the Soviet Union in 1991 and the war in the Balkan region in former Yugoslavia caused a rise of asylum applicants in Western European countries. The rise of asylum-seekers, as well as the broadening of their origins, caused a shift of attitude towards these newcomers, who were now increasingly seen as 'bogus', or '[...] economic migrants seeking to avoid dodging controls on labour migration by using the asylum channel' (Geddes 2003, p.18).

## 4.2.2 Macroeconomic evolutions and the advent of the 'managed migration' paradigm

### 4.2.2.1 *Managing migration*

It took some time before policymakers took a renewed interest in economic immigration following the first oil shock in the early 1970s and the termination of active recruitment. The topic did come back to the forefront of the European political scene in the late 1990s, yet in a different form and in very different macroeconomic circumstances. Whereas the 1960s and 1970s had been characterised by Fordist-inspired production schemes, European economies experienced major transformation in the following decades. The globalisation of the economy characterised by the growing interdependence of national economies, together with the rationalisation of production processes and the change of focus towards new sectors profoundly changed labour opportunities for both nationals and foreigners. International migration was also intensified with the end of the Soviet Union and the war in former Yugoslavia. What is more, high levels of unemployment across Europe, combined with ageing populations, putative skill shortages and recruitment obstacles, incited European governments to revive active labour immigration policies (Georgi 2009; Menz and Caviedes 2010).

In attempting to directly control migration flows, governments in Western Europe made the concept of 'migration management' their own.<sup>46</sup> As explained by Georg Menz in his book entitled *The Political Economy of Managed Migration* (2009), managed migration is 'managerial, economic, and restrictive, focusing on the potential economic and social contributions by

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<sup>46</sup> As underlined by Fabian Georgi, reference to 'migration management' resonates with concepts such as 'health management', 'social management', or 'public management', developed since the 1990s (Georgi 2009).



immigrants to host societies' (Menz 2009, p.2). This neoliberal conception of migration rests on the idea that in order to be competitive in a globalised economy, immigration policies should adopt a human resource strategy. In other words, advocates of this view claim that migration should be administered in order to maximise the benefits of migration and minimise its negative impacts. To quote Brunson McKinley, former Director General of the International Organisation for Migration: 'So right now [global migration] is a very, very important factor in the entire world economy. And the best way to cope with this is to manage it properly, so that you maximise the benefits and you get rid of some of the disadvantages, you get rid of the abuses [...]' (BBC News 2004). Apart from promoting the management of migration in the media, international organisations such as the International Organisation for Migration (IOM), the Organisation for Economic Co-operation and Development (OECD), and the International Labour Organisation (ILO) have published countless reports where the importance of better managing migration flows is underpinned (e.g. OECD 2001, 2006, 2009; ILO 2008). As for the International Organisation for Migration, the name of one of its department – 'Department of Migration Management' – speaks for itself (see also IOM 2004, 2008).

In this context, the management of migrant populations since the 1990s across Europe has mainly centred on attracting so-called 'useful' migrants, i.e. educated, skilled migrants. Unskilled migrants, for their part, have been largely pushed aside (Appleyard 2001; Menz and Caviedes 2010).<sup>47</sup> This interest in high-skilled immigration marked a clear shift of perception. In contrast to past immigration policies, which had mainly centred on a cheap, low-skilled workforce employed mostly in construction, farm work, and manufacturing, the new objective consisted in attracting the 'best and brightest', in order to compete in the global, knowledge-based economy<sup>48</sup> (Shachar 2006). This global 'race for talents' incited a number of European countries (although not all), to put in place immigration policies specifically targeted at educated foreigners from outside the European Union. Hence, skilled migrants have been viewed positively as contributing to competitiveness and national welfare schemes by

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<sup>47</sup> For these unskilled migrants, Europe has taken the form of a 'Fortress', a term repeatedly utilised in the migration literature (e.g. Geddes 2000; Caviedes 2010a; Roos 2013).

<sup>48</sup> The 'knowledge-based economy' may be defined as '[...] production and services based on knowledge-intensive activities that contribute to an accelerated pace of technical and scientific advance [...]' (Powell and Snellman 2004, p.199). The crucial element of such an economy is intellectual capabilities rather than natural resources or physical strength.

employer organisations and business groups, as well as by national governments and the broader public opinion.

#### *4.2.2.2 The challenges of developing a comprehensive immigration policy at the EU level*

In the 1990s, as labour migration was re-emerging on political agendas of European countries, the European Commission tried to position itself in this highly sensitive field. As mentioned above, the fall of the Berlin Wall together with civil war in ex-Yugoslavia, led to a massive rise of illegal immigration into Western European countries (Interview 1; see also De Bruycker 2002). In these circumstances, heads of state and government acknowledged that making Europe ‘an ever closer Union’ and developing further the Schengen common travel area required a common immigration approach and a suitable legal basis for dealing with the entry and residence of third-country nationals (Interview 2).

At the occasion of the 1999 Tampere Summit – the first ever European Council dedicated to Justice and Home Affairs – Heads of State and government acknowledged the need for the European Union to adopt a comprehensive migration policy (and to avoid giving pre-eminence to restrictive controls). Participants further expressed ‘the need for approximation of national legislations on the conditions for admission and residence of third country nationals, based on a shared assessment of the economic and demographic developments within the Union, as well as the situation in the countries of origin. It requests to this end rapid decisions by the Council, on the basis of proposals by the Commission’ (European Council 1999, Art. 20). To this end, the Council set a pluri-annual programme built on measures prescribed by the 1998 Vienna Action Plan, the Treaty of Amsterdam, and the Tampere Conclusions, extending over the period 1999-2004 (known as the ‘Tampere Programme’).

The European Commission was invited to prepare a scoreboard to review progress regularly, and a mid-term review was scheduled for December 2001 (European Council 2001). By defining the political framework in which Heads of State and government wished to build a common immigration policy, Tampere provided the European Union with new impetus to initiate discussion on JHA-related issues. Yet, although these political declarations legitimised subsequent efforts of the Commission to promote the harmonisation of admission policies, gaps remained between political declarations and effective action. The Presidency Conclusions

themselves reflected a certain uneasiness with the domain of migration. In fact, despite the laudable intentions to consider the area in its entirety, the Conclusions reflected the highly delicate nature of the field (European Council 1999, p.4, Section IV). In this vein, the objectives stated in the 'Tampere Programme' lacked indications on how to concretely achieve the stated intentions.

Making use of the apparent window of opportunity opened by the Tampere Programme, the Commission presented a proposal for a Directive on 'the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities' in July 2001 and submitted it to the Council on 5 September (Commission of the European Communities 2001). The text suggested the adoption of a single legal procedure to regulate both residence and work conditions of all economic third-country migrants without distinction. The 'Community preference principle', referring to the attribution of a post to a third-country national only in cases where no EU citizens or legal residents could be found, was to be respected. As explained by Georg Menz, the Commission hoped 'that this superimposed EU pathway might in the long term supersede or at least streamline national procedures' (Menz 2011, p.453). A delicate balance had to be found between the willingness of the European institution to open up new channels for labour migration, and the necessity to avoid the stirring of opposition from the part of Member States (especially Germany and Austria) opposed to relinquishing sovereignty in this sensitive domain (Monar 2002, p.125). For this reason, the proposal left substantial discretion to Member States. To give a few examples, EU members could limit economic migration by using national ceilings or quotas (Commission of the European Communities 2001, obj. 5 and 8, p.4); Member States were also granted the possibility to put in place 'green-card programmes' in order to recruit needed specialists in specific sectors (ibid., Art. 6(3), p.12). The European Parliament, the Economic and Social Committee and the Committee of the Regions supported this initiative, but the proposal stirred strong resistance from Member States, which opposed increased EU competence in the field of immigration policy. Discussion in the Council of Ministers was limited to a first reading of the text and came to an end in June 2002. Facing political blockage, the European Commission decided to withdraw the text in 2006 (Official Journal of the European Union 2006) and put a halt to its horizontal approach to labour immigration covering all third-country nationals indistinctly.

### **4.3 The Blue Card policy process and the focus on highly skilled third-country nationals**

#### **4.3.1 The revision of the EU approach to legal immigration**

Drawing lessons from the failure of the 2001 proposal negotiations, the European Commission adopted a more prudent stance in the following years. Its initial move consisted in modifying the narrative on labour immigration in order to make it more acceptable to governmental actors and employer organisations. This shift is visible in the 2003 Communication on immigration, integration and employment (Commission of the European Communities 2003). In comparison to the 2001 draft proposal, which presented the EU labour policy as beneficial for European businesses and third-country workers, the Communication presented economic immigration as an important aspect of the success of the Lisbon strategy.<sup>49</sup> Consequently, some of the resistance towards EU involvement in labour immigration areas toned down (Menz 2011). In order to keep interest in labour migration policy afloat, the subject was strategically put back on the EU political agenda in 2005 with a Green Paper on an EU approach to managing economic migration (Commission of the European Communities 2005a). In the meantime, both the July 2003 Thessaloniki European Council (see Council of the European Union 2003) and the June 2004 Brussels European Council (see Council of the European Union 2004a) had pointed to the need to develop a common immigration policy at the European level. The Commission, thus, believed time was ripe to revisit the subject.

By adopting a ‘bottom-up’ (rather than a ‘top-down’ perspective) (Bertozzi 2007, p.8), Commissioner for Justice, Freedom and Security Franco Frattini wished to launch a vast external consultation on the future of a common legal immigration policy prior to submitting a new directive proposal. The idea was to involve interested stakeholders at an early phase of policy-making in order to avoid subsequent opposition as much as possible. To this end, consultations were carried out with EU institutions, Member States and non-Member States, business organisations, trade unions, think tanks, academia, non-governmental organisations, national parliaments and political parties, as well as regional and local authorities.

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<sup>49</sup> The Lisbon Strategy was launched by the March 2000 Lisbon European Council and pursued to make the EU ‘the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion’ by 2010. It specifically addressed the need to attract more skilled migrants (Council of the European Union 2000).

International organisations were also invited to express their views on the subject (Commission of the European Communities 2005d). Also, the hosting of these discussions enabled the Commission to give more legitimacy to its involvement (Luedtke 2011, p.17) and to send a signal to Member States that action was needed in this field (Roos 2013, p.71).

The objective of the Commission – via the Green Paper – was to convince Member States of the benefit of having a European approach, which would address their domestic economic concerns. As was the case in the 2003 Commission Communication, the institution wished to justify its controversial involvement in legal immigration issues on the ground that a common immigration policy was needed to combat demographic decline and ageing, as well as to enable competitiveness and the fulfilment of the Lisbon strategy. Further, the European institution wished to ease tensions and show its constructive attitude, underlining the fact that it had taken the concerns of Member States – expressed during the 2001 discussions – into consideration (such as the right to determine the number of migrants admitted to enter their domestic labour market). It also insisted on the importance of moving gradually from national to EU rules, while reassuring Member States of their preserved latitude to put in place specific national measures (Commission of the European Communities 2005a, p.5). The Green Paper suggested three possibilities for progress. The first option was the adoption of a ‘horizontal approach’, identical to the one presented initially, including conditions of entry and residence for all third-country nationals. The second alternative was to partition the common framework into a series of sectoral legislative proposals covering, for example, skilled migrants, seasonal workers, or intra-corporate transferees. This second choice would put aside the overall common framework preferred by the Commission, but would have the advantage of facilitating the adoption of common rules (*ibid.*). Third, a ‘common fast-track procedure’ in cases of specific labour and skills shortages was put on the discussion table. A public hearing closing the official consultation process was organised by the Commission (i.e. Directorate-General Justice, Freedom and Security) on 14 June 2005 (Commission of the European Communities 2005e).

The analysis of the approximately 130 written contributions sent to the European Commission in 2005 showed a high interest in the issue and general support for a common economic immigration policy, albeit with important discrepancies in the methods to be adopted. Overall,

participants were divided into two groups. On one side stood the promoters of a comprehensive, horizontal perspective, along the lines of the 2001 Directive proposal. They included Non-governmental organisations (e.g. Amnesty International, Caritas Europe, Red Cross) and Trade Unions (e.g. European Trade Union Confederation, or ETUC). These organisations shared the view that third-country immigrants seeking to enter the EU for economic purposes should be given equal conditions. They feared that a special scheme granted to the highly skilled would create first and second-class immigrants. ETUC, in particular, expressed its disappointment ‘about the overall emphasis in the Green Paper on the economic aspects and utilitarian arguments’ (ETUC 2005, p.8). The other group, comprised of Member States and employer associations, remained doubtful regarding the establishment of a common labour immigration scheme. Both emphasised the need to ‘fully respect the principle of subsidiarity’ and preserve national leeway in this area (Council of the European Union 2005a, pp. 15-16; UNICE 2005). Three aspects were repeatedly mentioned in their contributions, namely the need for the EU to equip itself with common rules towards specific categories of economic migrants (i.e. highly skilled and seasonal workers), the importance of putting in place a secure legal status for all immigrants working in the EU, and the necessity to move away from complex and bureaucratic administrative procedures. High-skilled third-country nationals, in particular, were seen as key for the European competitiveness and therefore had to be given priority over other categories of migrants.<sup>50</sup> Hence, Member States, in line with business interests, showed clear preference for policies targeted at specific types of immigrants.

The idea of holding an external consultation round was to give everybody a voice, but all voices did not obviously bear the same weight. In a decision-making process handling legal immigration by unanimity in the Council (consultation of the European Parliament and non-involvement of the Court of Justice)<sup>51</sup>, it comes as no surprise that the Commission took special care to take concerns and preferences of Member States into consideration. As seen above, these positions coincided with the ones favoured by the business community and expressed via BusinessEurope. Hence, as underlined by Georg Menz (2009, p.114), it may be no

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<sup>50</sup> See for example the German Federal government’s response to the Green paper (Federal Republic of Germany 2005), or the Response to the Green Paper of the European Services Forum (European Services Forum 2005).

<sup>51</sup> See Art. 67 of the Amsterdam Treaty (Official Journal of the European Communities 1997).

coincidence that the Commission adopted the exact direction advocated by UNICE, in its response to the Green Paper. In this document, the European employer federation advocated a 'horizontal framework covering all categories of economic migrants with more favourable provisions for trainees, intra-corporate transferees, contract service suppliers, business visitors, seasonal workers' (UNICE 2005, p. 2). By adopting such an outlook, the EU institution moved away from its original grand plan, seeking to secure progress, no matter how meagre it was. It ultimately received the green light from Member States (i.e. the veto players in the policy-making process) to work on new legislative proposals in the sensitive area of legal economic immigration.

#### 4.3.2 The adoption of a sectoral approach

With the end of the Tampere Programme in sight, came time for the EU to assess results in justice and home affairs and prepare future orientations. The Commission took this opportunity to issue a communication to the Council and the European Parliament, drawing up a broadly positive record of past achievements while underlining persisting difficulties: '[...] it is clear that the successes that have been achieved are considerable. However, the original ambition was limited by institutional constraints, and sometimes also by a lack of sufficient political consensus' (Commission of the European Communities 2004, p. 5). The document also included detailed proposals for a follow-up programme, which ultimately became the basis of the so-called 'Hague Programme' covering the period 2005-2009. This new multi-annual plan adopted by the European Council on 4-5 November 2004 was very much focused on completing unfinished tasks from the previous period, namely the development of an area of freedom, security and justice (see Council of the European Union 2004b). The Hague Programme acknowledged the importance of legal migration, but the objectives in this domain were substantially vague, as if to avoid any potential controversial issues: 'Legal migration will play an important role in enhancing the knowledge-based economy in Europe, in advancing economic development, and thus contributing to the implementation of the Lisbon strategy' (ibid., p.10). More importantly, the narrative of the Programme was in line with the Commission's strategy, adopted following the failed 2001 attempt, to connect its labour migration objectives with the Lisbon agenda. Thereby, although the European Council, once again, recalled that the determination of the number of labour immigrants remained under the strict control of Member States, its interest in an EU labour migration policy persisted. Thus,

the European Council invited the Commission to prepare a Policy Plan on Legal Migration 'including admission procedures capable of responding promptly to fluctuating demands for migrant labour in the labour market' before the end of 2005 (ibid., p.10).

This Policy Plan on Legal Migration, prepared on the basis of the contributions gathered during the Green Paper consultation process, marked a turning point of the EU political vision in the field of labour immigration (Commission of the European Communities 2005b). More precisely, the document illustrated a change of paradigm, from a horizontal approach regulating entry and residence conditions of economic migrants (as suggested in the 2001 legislative proposal) to a fragmented approach of immigration policy focusing on a few selected categories of labour immigrants (ibid., p.5). This new viewpoint reflected a utilitarian, selective and economically-oriented approach to labour immigration policy (Carrera 2007, p.2): the very same scheme ETUC and NGOs had criticised during the Green Paper consultation in 2005 (see above). The newly adopted approach also enabled a clear distribution of responsibility between the EU and national political spheres (Van Riemsdijk 2012, p.352), as well as the consideration of heterogeneous domestic realities.

The Policy Plan itself included an indicative roadmap of legislative proposals that the Commission intended to put forward in the remaining period of the Hague Programme (i.e. from 2006 to 2009). In this document, the Commission recommended the adoption of a general framework directive 'to guarantee a common framework of rights to all third-country nationals in legal employment already admitted in a Member State, but not yet entitled to the long-term residence status'. It further suggested the adoption of four complementary directives covering highly qualified workers (other than researchers), seasonal workers, intra-corporate transferees and remunerated trainees. Against this backdrop, the December 2006 European Council held in Brussels acknowledged 'the importance of migration issues for the EU' (European Council 2006, point 21) and agreed on a series of steps to be taken during the year 2007, including measures regarding legal immigration. The European Council expressed its desire to 'develop [...] well-managed migration policies, fully respecting national competences, to assist Member States to meet existing and future labour needs', adding that 'the forthcoming Commission proposals within the framework of the Policy Plan on Legal Migration of December 2005 should be rapidly examined' (ibid., point 24 (d), p.11). The



proposals did not touch upon national admission policies (a prerogative fiercely defended by Member States and business interests). In sum, by changing its strategy, the Commission did manage, although modestly, 'to get its foot in the door' (Boswell and Geddes 2011, p.96) and opened the way to the preparation of the Blue Card Directive.

### 4.3.3 The making of the Blue Card Directive

#### 4.3.3.1 *The framing of the Blue Card proposal by the European Commission*

The legal base of EU policy-making in the area of legal immigration under the Amsterdam Treaty<sup>52</sup> provided for the adoption of co-decision (and thereby the use of qualified majority voting) in areas covered by Title IV on 'visas, asylum, immigration and other policies related to free movement of persons' after a five-year period upon the unanimous vote of the Council.<sup>53</sup> This provision, however, did not apply to legal immigration.<sup>54</sup> As such, the balance of power between the Commission and Member States was clearly in favour of the latter. In this context, the European Commission was cautious when manoeuvring in this highly sensitive area. The failed 2001 directive proposal incited the Commission to modify its presentation of the problem in order to legitimate the need for European-level activism. In order to move towards increased communitarisation, the Commission had to somehow circumvent the profound antipathy from the part of Member States, which had no intention of relinquishing power.

The work of the Commission as regards legal migration fell within the Integrated Guidelines for Growth and Jobs: a four-year programme for the period 2005-2008 (Commission of the European Communities 2005c). Issued in April 2005, this document formed part of the endeavour, endorsed by the March 2005 European Council, to review the Lisbon Strategy.<sup>55</sup> In

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<sup>52</sup> See articles 63(3)(a) and (4) of the EC Treaty.

<sup>53</sup> Article 67 (2) TEC, second indent stipulates that 'the Council, acting unanimously after consulting the European Parliament, shall take a decision with a view to providing for all or parts of the areas covered by this title to be governed by the procedure referred to in Article 251 and adapting the provisions relating to the powers of the Court of Justice'.

<sup>54</sup> It remained so until the entry into force of the Treaty of Lisbon, in December 2009.

<sup>55</sup> The Lisbon Strategy was launched by the March 2000 Lisbon European Council and pursued to make the EU 'the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion' by 2010. It specifically addressed the need to attract more skilled migrants (Council of the European Union 2000).

a context of weak growth and meagre job creation, the European Commission presented EU-level immigration issues as an essential factor of competitiveness and growth. As such, it underscored the need to improve the matching of labour market needs through, *inter alia*, an 'appropriate management of economic migration' (Council of the European Union 2005b, point 19, p.28). These general guidelines were subsequently translated into more concrete tasks in the October 2006 Legislative and Work Programme for the year 2007. This document underlined the need to establish 'A better management of migration flows'. Under this heading, it was stated that '[s]pecific attention needs to be given to the position of *highly skilled migrants*, with a swifter response time to react to changing needs – something like a “green card” system' (emphasis in the original text) (Commission of the European Communities 2006, p.6). Moreover, a roadmap offering an initial impact assessment screening of the directive proposal and a planning of future assessment work was inserted in the index of the 2007 Work Programme (Commission of the European Communities 2007b). This text was an important milestone in the planning of future work in the field of legal immigration insofar as the Proposal for a directive on the conditions of entry and residence of highly skilled workers figured among the strategic initiatives of the Commission (*ibid.*, p.13).

The Commission proposal on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment issued in 2007 took over part of this narrative, although the text was very much impregnated by notions of 'Community preference' and volume of admission. On one side, the Commission advocated a migration policy oriented towards enhanced competitiveness and better efficiency in a competitive globalised economy. In its own terms, the objective was: '[...] to improve the EU's ability to attract and – where necessary – retain third-country highly qualified workers so as to increase the contribution of legal immigration to enhancing the competitiveness of the EU economy by complementing the set of other measures the EU is putting in place to achieve the goals of the Lisbon Strategy' (Commission of the European Communities 2007a, p.2.).

In the eyes of the Commission, the need to place this issue high on the political agenda was all the more important, given the poor performance of the EU as regards a fierce global competition for highly qualified professionals: whereas 87% of migrants coming to the EU from Maghreb countries were unskilled to medium-skilled immigrants, 54% of the highly

qualified population from this same region were residing in North America (i.e. United States of America and Canada). Evidence from analysis also suggested that some Member States faced growing difficulty in finding needed skilled workers within their domestic labour market. According to the Commission, the reasons why the European Union encountered these difficulties in attracting talents were threefold. First, in comparison with the USA and Canada where admission procedures were similar over vast territories, highly qualified migrants coming to the EU had to deal with 27 heterogeneous admission systems. Second, migrants could not easily move from one country to another for work (until they acquired the long-term resident status). Lastly, lengthy and cumbersome procedures at times incited them to choose non-EU countries offering more advantageous conditions for entry and stay (Commission of the European Communities 2007a, p.3). Moreover, Eurostat forecasts indicated a decrease of the total population of the EU by 2025, accompanied by a decline of the working-age population by 2011. Against this background, and as a result of constant expansion of employment in high-education sectors, a growing dependence of European economies on highly qualified labour was to be expected (ibid.). Immigration was not perceived as the unique solution to solve demographic and economic challenges, but was viewed as an available tool within a wider policy mix (ibid., p.3).

On the other side, it held back from going too far on the path of harmonisation and free movement of labour. Hence, the European Commission suggested the creation of a common fast-track procedure characterised by a needs-based approach, which, however, would not create a right of admission. The idea was to set up 'a level playing field at EU level to facilitate and harmonise the admission of [highly skilled workers] and by promoting their efficient allocation and re-allocation on the EU labour market' (Commission of the European Communities 2007a, p.2). As such, two key aspects were tackled: the introduction of a special scheme for the entry and residence of non-EU high-skilled nationals applying to reside in the EU for a period exceeding three months, and conditions under which Blue Card holders legally residing in a Member State may reside with their family members in other Member States.

#### *4.3.3.2 Main lines of division among Member States*

Notwithstanding the fact that the Commission had been careful to preserve national prerogatives, the proposal was highly symbolic as it could potentially initiate EU competence in the touchy area of labour migration (Boswell and Geddes 2011, p.96). Debates in the Council of Ministers were particularly lively, Member States clustering around similar interests and conceptions of how to manage highly skilled immigration. Three points were particularly problematic, namely the definition of the terms ‘highly qualified employment’ and ‘higher professional qualifications’, complementarity between Community and national provisions, and admission criteria (i.e. the minimum salary threshold) (see Council of the European Union 2008c).

Arguably, countries favourable to a European immigration policy for highly skilled personnel either did not have a specific national policy or had a restrictive policy, towards this group of persons and/or were unsuccessful in attracting them (Cerna 2008, p. 18). One could add countries which saw an opportunity to review their national policy or upload their national approach to the EU level. In fact, among the countries which backed the proposal, Italy, Spain and Sweden were not very successful at attracting highly skilled migrants. Difficulties related to immigration policy in Sweden led politicians to see the Blue Card as a potential way out (Engel 2008). Spanish Secretary of State for Migration, María del Consuelo Rumí Ibáñez explained: ‘We need to have integrated (EU) policies, not only in fighting illegal immigration but also [...] to channel in an orderly fashion immigrants who come to work on the EU territory’. The French were dissatisfied with their national policy towards highly skilled migrants and put significant energy into preparing the ‘European Pact on Immigration and Asylum’. In this optimistic mood, French ambassador to the EU, Pierre Sellal, welcomed the Blue Card as an important step forward in attracting highly skilled migrants into the Union (Budapest Business Journal 2007). On the other hand, countries with open and/or successful high-skilled immigration policies were less interested in the Blue Card and refused to give away sovereignty in these sensitive matters (Collett 2008, p. 3). One could also include national governments which were developing their own national scheme vis-à-vis highly skilled third-country foreigners at the time of the Blue Card negotiations and refused any involvement of the EU. Within this group, three sub-categories may be distinguished: countries which decided to opt out of the EU Blue Card permit (i.e. United Kingdom, Denmark, and Ireland), fierce

opponents to the Blue Card proposal who aimed to make the Blue Card as restrictive as possible (especially Austria and Germany), and countries which disputed the Blue Card on principle (several of the new Member States) (see Council of the European Union 2008a).

Within the first sub-group, the United Kingdom saw very little benefit in the Commission's initiative since it already had a successful highly skilled policy towards third-country nationals and had implemented a points system in 2008 (Collett 2008, p.3). Denmark, already having a system to attract highly skilled workers in place, experienced a similar situation. Consequently, the UK and Denmark opted out of the European scheme (together with Ireland) (Council of the European Union 2008b, footnote 1, p.2).

The second sub-group encompassed the strongest opponents to the EU's desire to gain competence in labour migration issues, namely Austria and Germany. As during Council negotiations on the 2001 Directive proposal on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities, both delegations were instructed by their national governments to reject all provisions that could impact their domestic policies. A member of the General Secretariat of the Council confirmed that 'Austria and Germany had a systemic problem as far as legal migration was concerned. The fact that the legal basis of the proposed Directive touched upon access to their labour market was a fundamental issue, which they could not accept. They adopted the same stance on other texts, such as the Single Permit proposal' (Interview 3). This fear of losing sovereignty and seeing the EU influencing national policies was widely echoed in the media. The Austrian Interior Minister, Günther Platter, expressed a concern widely shared within this group, namely that each EU Member State was solely responsible to determine the number of migrant workers admitted to enter its territory, and that preference should be given to workers coming from other EU countries rather than third-country nationals. The Austrian government condemned the proposal as a 'centralisation too far' (BBC News 2007).

At the time of Council negotiations, Austria was in the process of drafting its own national immigration system. The 'Red-White-Red Card' (introduced in 2011) is a points-based residency and employment permit directed, among other categories, at highly skilled third-country nationals. In Germany, resistance was particularly vehement since many political actors, as well as major business associations such as the BDA and the BDI were sceptical of

the relevance of an EU-level solution to the problem of skill shortages (see UNICE 2005, footnote 1). German politicians were concerned about high levels of unemployment rates and believed that labour shortages of highly skilled talents could be solved at the domestic level (Collett 2008, p.3). The German Economy Minister, Michael Glos, claimed that 'Germany could not take in large numbers of foreign workers just because it need[ed] them at one particular moment' (Der Spiegel 2007a; own translation). Labour Minister, Franz Müntefering, also expressed deep resistance as regards a European scheme in the field of labour immigration. In his view, such an important issue could not be discussed by Labour ministers and the Commissioner for Justice, Freedom and Security only; instead, Labour ministers from all the Member States had to be given the opportunity to express their view on the subject (Der Spiegel 2007b).

On the contrary, business leaders shared the view that highly skilled immigration was needed in Germany, and that the dearth of IT specialists and engineers could impact the German economy negatively in the short term (Der Spiegel 2007a). For these countries, competition between Member States and their own success in attracting talents appeared more important than progress towards the establishment of a pan-European scheme. The third sub-group within the wider contestation front, led by the Czech Republic, gathered Member States that had joined the EU in 2004. Subject to transitional clauses which limited the free movement of their people, these countries insisted on the need to lift all remaining free movement restrictions of citizens of new Member States before the adoption of the Blue Card Directive (see Council of the European Union 2008a, p.2). For the Czech minister, Ivan Langer, (supported by the Slovak minister Robert Kaliňák): 'Our citizens cannot be in a worse situation than non-EU states (Goldirova 2008).

#### *4.3.3.3 The Blue Card legal text: evolution and lacunas*

As a general remark, amendments of the proposal made by the Council reflected continuing tensions between European integration and national sovereignty (Collett 2008). Whereas the Commission wished to progress towards harmonisation, States managed to lower ambitions in skilled migration matters, retaining firm control over admission into their domestic markets. Compared to the 2007 Proposal, the final version (Council of the European Union 2009) is described in the literature as a 'watered-down directive' (Kahanec and Zimmermann 2010,

p.20; Van Riemsdijk 2012, p.353), a directive based on a 'lowest common denominator' (Cerna 2010, p.25), a 'poorly thought-out initiative' (Papademetriou *et al.* 2008, p.17). Demetrios Papademetriou and colleagues go as far as to write: '[...] efforts [of the EU] are full of bureaucratic requirements that make the analyst wonder whether the endeavour has been designed to attract talent or simply to allow bureaucrats to check off the box marked "we are also players" in these sweepstakes' (ibid.). Although the Council scaled down the ambitions of the Proposal to move towards an integrated EU labour immigration policy, one should recognise the innovative aspects which remained as regards family reunification (Commission of the European Communities 2007a, article 15), the possibility to accumulate the five years of residence required for Long-Term Resident status in different Member States (ibid., Article 16(2)), as well as the right for high skilled workers to leave the EU for a maximum period of 12 months without losing their Blue Card status (ibid., Article 16(3)). These provisions, however, remain modest when compared to the initial objectives of the European Commission.

One of the major ambitions of the Commission Proposal was to 'establish [...] a fast-track procedure for the admission of highly qualified third-country workers, based on common definition and criteria: work contract, professional qualifications and a salary above a minimum level set at national level' (Commission of the European Communities 2007a, p.6). In other words, the idea was to create a single application procedure for all Member States (ibid., Recital 7). Instead, the text voted in 2009 kept national policies for attracting highly skilled talents in place<sup>56</sup>, simply creating an additional channel for legal immigration. Moreover, Member States negotiated the right to offer more advantageous conditions to the highly-skilled than the Blue Card scheme on the basis of national legislation (Council of the European Union 2009, Article 4). According to some authors, this provision reflects a growing competition among Member States to attract the 'best and brightest' (Collett 2009, p.1; Ball 2010, p.10; Van Riemsdijk 2012, p. 354). What is more, in its original proposal, the Commission granted Blue Card holders the right to free access of all Member states' labour markets after a two-year period of legal residence (Commission of the European Communities 2007a, article

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<sup>56</sup> Article 3(4) of the Blue Card Directive, added by the Council, provides that 'This Directive shall be without prejudice to the right of the Member States to issue residence permits other than an EU Blue Card for any purpose of employment. Such residence permits shall not confer the right of residence in the other Member States [...]' (emphasis added).

19(1)). In the final text, highly skilled workers are allowed to move to another Member State for employment purposes after 18 months of legal residence (Council of the European Union 2009, article 18(1)). However, the migrant (and/or his employer) has to apply for a new Blue Card in the second country within a month of arrival (*ibid.*, Article 18(2)), thereby going through the entire administrative procedures once again. In sum, Member States considerably reduced 'freedom of movement' for third-country high-skilled personnel (see Collett 2009, p. 1). At times, the Council also dropped provisions of which it disapproved. Thus, article 6 of the Proposal, which granted derogations from the general scheme to highly-skilled workers under the age of 30 to ease their access into the EU, disappeared from the final version of the Directive.

In addition to changes brought about by the Council, one should also highlight several omissions as regards the Blue Card Directive. To start with, the 2009 legal text remains silent on the relationship between the Blue Card permit and national rules (see Article 3(4) of Council of the European Union 2009). In case a State has established quotas for labour migrants, there are no indications as to how to allocate residence permits between the two channels (Peers 2009, p.391). Secondly, there is no requirement of compatibility concerning the 'more favourable provisions' (*ibid.*, Article 4) with the rules set in the main text of the Directive. Steve Peers underlines that this requirement oddly does appear in the preamble (*ibid.*, Recital 7) (Peers 2009, p.392). Furthermore, article 7(1) provides that a third-country national who has fulfilled all required criteria for admission shall be issued a Blue Card. However, the text does not clarify whether national administrations are obliged to issue the Blue Card in case the conditions are satisfied (*ibid.*, p.394). The wording is vague on the subject: 'The Member State concerned shall grant the third-country national every facility to obtain the requisite visas' (Article 7(1), second paragraph). Additionally, the recognition of qualifications and skills is not addressed within the Blue Card framework (*ibid.*, p.398). The individual assessment of skills acquired outside the Union by national administrations, together with the absence of an EU framework may cause tension for mobile Blue Card holders within the EU (see Collett 2008). As Yasin Kerem Gümüs notes, it will most certainly not suffice to refer to article 14(1d) of the Directive, which provides Blue Card holders equal treatment with nationals regarding the 'recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures' (Gümüs 2010, p.446). Access to self-employment or less



skilled employment by Blue Card holders is also not addressed (Peers 2009, p.408). Finally, the Blue Card Directive is silent on the structural barriers to mobility, such as portable social security, pension schemes, different taxation systems, which affect any person moving from one country to another (Collett 2008, p.2).

#### **4.4 Conclusion**

In comparison with countries like the United States, Canada, and Australia, the experience of Europe as a continent of immigration is relatively limited. This said, patterns of political involvement in this area have taken different forms since the second half of the 20<sup>th</sup> century. Following an open-door policy vis-à-vis foreign workforce in the post-war period, the oil crisis of the early 1970s marked a change of rationale and the adoption of more restrictive policies. As a result, labour migration decreased considerably and priority shifted from economic immigration to asylum, at a time when the Balkans faced civil war and the Soviet Union was collapsing. Migration came back on political agendas in the late 1990s, in connection with the willingness of governments – consistent with the position of international organisations – to attract the ‘best and brightest’ in order to compete in a globalised economy. Since then, the idea of ‘managing immigration’ has gained generalised support across Western Europe. This utilitarian view is based on the maximisation of benefits of migration and the minimisation of its negative effects. Along this line of reasoning, skilled persons whose talents serve domestic economies should be welcomed, whereas entry conditions should be strengthened for the others, who are seen as a burden.

The ‘management’ of immigration played a major part in the development of legal migration policy at the level of the European Union. As was demonstrated above, given that the Council of Ministers had the final say in legal migration matters under the Amsterdam Treaty, the European Commission was bound to gain the support of Member States if it wanted to progress. Hence, the move from an all-encompassing approach of economic migration to a focus on highly skilled third-country nationals may be depicted as the incorporation of the ‘managed immigration’ scheme into the European perspective. However, this, as was demonstrated above, did not suffice to set up a single European entry and residence permit for non-EU national talents, as initially envisaged by the European Commission. Resistance

from the part of national capitals to forsake their sovereignty in this highly contentious issue led to the adoption of a highly symbolic, yet much eroded legislative text.

The next two chapters (5 and 6) dig into the empirical aspects of the Blue Card Directive policy-making process using an actor-centred approach of Europeanisation. Chapter 5 investigates multi-level activities of German, French, and Luxembourgish interest groups. What forms did the activation of the European sphere by these actors take and how can these 'moves to Europe' (or the absence thereof) be explained?

## **5 Europeanisation understood as the activation of the EU level by domestic interest groups**

### **5.1 Introduction**

In order to make their voice heard by European institutions, national interest groups expand their lobbying activities to the EU level. However, this is not automatic and while some do engage actively in supranational venues, others do not (or to a limited degree). How can such a variation be explained in the case of German, French, and Luxembourgish interest groups during negotiations on the Blue Card Directive proposal? This chapter provides answers to this question by testing the first five hypotheses presented in chapter 2. The choice of these three national settings enables us to pinpoint contrasting lobbying scenarios, ranging from the high intensity of German involvement in this legislative process, to more timid French actors' activism and the non-implication of their Luxembourgish counterparts.

As noted in chapter 4, the Blue Card Directive aimed primarily at lowering entry and residence barriers for highly qualified non-EU citizens. This labour-related topic is, a priori, highly relevant for two specific kinds of national actors: employer organisations, which seek to open the door to foreign talents as much as possible, and labour unions, which are generally keen to protect their members and avoid social dumping. These two categories of actors represent obvious candidates as regards multi-level venue shopping in the case of the Blue Card Directive, but certainly do not cover the totality of non-governmental stakeholders, which mobilised at the EU level on the subject. As underscored in the methodological chapter, the selection of actors also follows a pragmatic logic, based on the availability of documentation and the degree of recollection of interviewees.

The next three sections focus on actors from the three considered countries, namely Germany, France, and Luxembourg. Each part provides a descriptive account of actors' multi-level lobbying strategies (or the absence thereof), prior to assessing the weight of a set of variables in explaining variation of domestic interest groups' propensity to turn to Europe. In line with the hypotheses presented previously (see chapter 2), I consider both individual group characteristics and issue-related aspects. The final section discusses findings, comparatively assessing actors' Europeanisation patterns across the three countries under study and

discussing the relative pertinence of the different explanatory factors. The cognitive dimension of Europeanisation is addressed in the next chapter.

## 5.2 German actors

### 5.2.1 Discussion on the degree to which German interest groups targeted the supranational level

Overall, German interest groups deployed a very high level of activity on the EU Blue Card dossier in supranational venues. From lobbying through European umbrella organisations, to direct contacts with European institutions, not to mention the activation of the domestic level in attempts at leaving their marks on supra-national policy-making, German actors certainly activated all classic lobbying routes. On closer inspection, the study reveals a variety of approaches adopted by national organised interests. Turning to Europe is neither homogeneous nor systematic. This sub-section lays out a detailed account of the variety of tactics displayed in the course of the Blue Card Directive decision-making process.

Prior to getting into the substance of EU-level lobbying activities of German actors, let me briefly present the actors under study and pinpoint the reasons for leaving others aside. As far as the ‘big four’ employers’ organisations<sup>57</sup> are concerned (Grote *et al.* 2007, p.165, see also Reutter 2001, p.83), the German Confederation of Employers’ Associations (BDA) demonstrated the highest degree of activity.<sup>58</sup> As explained by a representative of the employers’ association, ‘In the field of migration, there is no other directive proposal that the BDA followed more closely’ (Interview 39). Moving to the trade umbrella organisation DIHK, findings gathered are piecemeal and do not provide a clear picture of what actually happened. This said, given that the focal point of this organisation’s activity is trade, and that it operates jointly with the BDA on a number of issues, the DIHK let the BDA operate in an area it knew best, namely the labour market. Last but not least, the peak organisation of skilled crafts, the ZDH, also activated its supranational lobbying repertoire as the Blue Card Directive proposal

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<sup>57</sup> The expression ‘big four’ highlights the fact that these organisations significantly surpass other associations in members and influence.

<sup>58</sup> Although close in many respects, the BDA and the BDI are two distinct structures. Whereas the BDA represents labour-market interests such as social security, working conditions, equal opportunity, and labour immigration, the BDI deals with industry-related subjects and comments on the overall state of the economy (see Caviedes 2010a, p.66). As such, the BDI did not take part in lobbying activity on the Blue Card Directive proposal and is therefore not tackled in this study.

was being discussed. In light of the above, the analysis below mainly focuses on the Europeanisation of the BDA and the ZDH.

As regards labour unions, most data presented here have to do with the major German labour organisation in terms of size and influence, namely the German Confederation of Trade Unions (DGB). Among DGB members who may have taken an interest in the EU Blue Card, neither IG Metall nor IG BAU pursued lobbying at the EU level. As the directive proposal was discussed in Brussels, the former claimed that it had nothing to do with it. Discussions on labour immigration arose relatively late at IG Metall (Interview 9). Holding a similar position, IG BAU felt that it was not concerned by the subject. As explained by a representative of IG BAU, 'IG BAU has to do with construction, buildings. There is no IT profession and very few engineers' (Interview 21). Adding to this limited resources, the trade union had no reason to mobilise on the subject.<sup>59</sup> This reality reflects the highly centralised EU-level lobbying activity of German labour interests in the course of the Blue Card Directive policy process. Apart from the above-mentioned actors, interlocutors have reported the activation of European lobbying channels by individual companies, in particular with members of the European Parliament (Interview 40). The difficulty in finding these stakeholders, together with the low response rate of contacted firms<sup>60</sup> does not allow me to say much on this particular point.

#### *5.2.1.1 Lobbying via European peak organisations*

The role played by peak-level European organisations in the strategies deployed by German actors displays contrasting patterns. Evidence supports the argument that German business actors viewed EU platforms as either crucial in their lobbying scheme, or at least useful. By contrast, the German Confederation of Trade Unions dismissed this channel altogether.

For the German Confederation of Skilled Crafts (ZDH), its European umbrella organisation—the European Association of Craft, Small and Medium-sized Enterprises<sup>61</sup> – represented an important venue to voice its concerns. The ZDH mobilised extensively on the topic and was

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<sup>59</sup> In contrast to the Blue Card Directive, the mobilisation of IG BAU was substantial on the Seasonal Workers directive and the Intra-Corporate Transferee directive both at the national and EU levels (Interview 21).

<sup>60</sup> I contacted nine major groups in the automobile, pharmaceutical and electronics industry, of which only one responded, giving a response rate of 11.1 %.

<sup>61</sup> This peak organisation is also known as UEAPME, in reference to the French denomination 'Union européenne de l'artisanat et des petites et moyennes entreprises'.

very vocal in the European peak organisation. It was concerned about the lack of young people in Germany, whatever the sector, and about the level of qualification (see, for example, ZDH 2006). A UEAPME representative explained: 'The ZDH is a crucial member and they have used our channel a lot to influence at European level' (Interview 5). What am I, then, to make of the picture painted by a ZDH representative according to which the organisation followed the dossier from the beginning, but regarded immigration of highly skilled third-country nationals as secondary? (Interview 4).

Two observations are worth making here. First, the main concern of ZDH was to work towards reducing the difficulty encountered by its members – typically comprising between two and six persons – in finding skilled persons. As such, its objective was not to mobilise on the topic of 'highly-skilled' personnel (i.e. with university degrees) per se, which played a marginal role in the day-to-day activity of SMEs. To quote another member of the German Confederation, '[w]hereas the subject of highly skilled immigration was extensively discussed among industrial actors, the handicraft sector had other more pressing issues to attend to' (Interview 6). Second, finding these workers beyond national borders, in other European countries, was already a considerable challenge, in terms of language barriers for instance. Considering that hiring non-EU nationals was an even more difficult endeavour and that the demand for this work-force was very low among German small and medium enterprises, it comes as no surprise that discussions on the EU Blue Card did not stand at the heart of ZDH's activities on the European scene. This said, although the topic was not directly in phase with the main concerns of members of the German Confederation of Skilled Crafts, it was utilised by the organisation as an opportunity to promote its views on ways to solve labour shortages nationally. The preparation of the UEAPME position paper on the Directive proposal (UEAPME 2008) was a useful channel for the German confederation to do so.

The German Confederation of Employers' Associations, for its part, also turned to its EU peak organisation, the Confederation of European Business (better known as 'BusinessEurope'). It is worth recalling that the Blue Card dossier was key for the BDA. The latter wished to ensure the non-intrusion of the EU into domestic labour immigration policy, an issue it viewed as an exclusive national prerogative. In this context, the BDA was careful to exploit all channels at its disposal to the fullest in order to increase its chances at influencing the Blue Card decision-

making process. In particular, the projection of the German Confederation's lobbying activity via its EU peak organisation – BusinessEurope – constituted a valuable platform for German businesses to voice their preferences (Interview 7). Two findings corroborate this idea. First, BusinessEurope offered the BDA the possibility to increase its weight vis-à-vis EU institutions and decision makers. Campaigning under the banner of BusinessEurope is likely to open doors more easily than acting individually. The Blue Card case was no exception to this (Interview 7). Second, BusinessEurope worked as an amplifier of the BDA's ideas on the European political scene. As is frequently done, the position paper prepared by the immigration and mobility working group was sent to the rapporteur and to different committees of the European Parliament, as well as to the Commissioner and the Directorate General in charge of the dossier, not forgetting the appropriate presidency contacts at the time (Interview 8).

However, the high level of activity of the BDA on the Blue Card dossier did not take place without some internal hurdles and opposition. In order to overcome them and to demonstrate that its ideas could not be reduced to German corporatism, the BDA worked hand-in-hand with its 'sister organisation', the Confederation of Danish Employers (DA), which is also a member of BusinessEurope (Interviews 7 and 11). Such closeness, visible in other circumstances as well, rested on a strategic lobbying purpose to work together in order to 'make a difference' (Interview 11). The objective was to join forces of two similarly built business structures with comparable positions on EU migration policy, presumably in view of influencing the position of BusinessEurope. By combining the substantial organisational means and representative weight of the BDA, together with the advantages of a smaller organisation representing the highly praised 'Danish model' based on 'flexicurity'<sup>62</sup>, both organisations hoped to increase their weight (Interviews 11 and 15). Alone, a small organisation such as DA did not have the necessary size to change much in the EU peak organisation. The BDA, for its part, utilised its cooperation with the Danes as a way to circumvent strong opposition, especially from the British (i.e. Confederation of British Industry) (Interview 11).

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<sup>62</sup> 'Flexicurity' – contraction of flexibility and security – refers to a strategy seeking to reunite 'employers' need for a flexible workforce with workers' need for security and confidence that they will not face long periods of unemployment' (<http://ec.europa.eu/social/main.jsp?catId=102>).

As was the case in other labour immigration-related EU initiatives (e.g. Proposal for a Council Directive 2001), German business actors (together with their Austrian counterparts) were strongly opposed to any European initiative in this field. They were worried about losing their political influence in case labour migration issues, including highly skilled immigration of third-country nationals, were transferred to the European Union. Given the influence of the German economy in Europe, it comes as no surprise that BusinessEurope's position on the subject was largely in accordance with German worries. Although it is certainly too farfetched to claim that the European umbrella organisation prepared its official statement on the sole basis of BDA preferences, the present analysis shows that the BDA managed to push its ideas forward. Examining the BusinessEurope Position Paper (2008), parallels may be drawn with the German position. As an illustration, the document stresses the need for the EU legislation to 'fully comply with the subsidiarity principle'<sup>63</sup>, stating that '[...] the proposal [...] interferes with the freedom of the individual employer and the worker to negotiate the salary' (ibid, p.1). Further down, it is argued that the European system vis-à-vis highly skilled third-country nationals should come in addition to national schemes, instead of replacing it, as suggested by the European Commission in its 2007 Directive proposal (ibid., p.1). These same arguments are visible in a 2008 'Euro-Info' BDA newsletter in which the German employers' association strongly emphasises the necessity to establish the EU Blue Card in parallel to national immigration schemes (BDA 2008a, p.8).

Like German employers that lobbied via their respective umbrella organisations, German trade unions could similarly have turned to the European Trade Union Confederation (ETUC) to express their positions and influence the European Blue Card policy-making process. However, the DGB favoured another approach from which the European Confederation was largely absent. If the timid participation of German representatives in meetings of the ETUC Working Group on Migration and Inclusion reflected their chosen lobbying strategy, it was certainly not a sign of disapproval of the position of the ETUC (Interview 9). DGB and ETUC shared a similar view when it came to advocating the adoption of an all-encompassing

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<sup>63</sup> The principle of subsidiarity aims to "safeguard the ability of the Member States to take decisions and action and authorises intervention by the Union when the objectives of an action cannot be sufficiently achieved by the Member States, but can be better achieved at Union level, 'by reason of the scale and effects of the proposed action'". The intention is also to make sure that 'powers are exercised as close to the citizen as possible' (Fact sheet from the European Parliament 2016).



Directive valid for all categories of legal migrants (as was proposed in the 2001 Directive proposal) and to raising awareness on the importance of treating all workers equally (Interviews 9 and 10). In the words of the European umbrella organisation, 'equal treatment in terms of wages, working conditions and contracts for migrants is a key issue, and any proposal to facilitate admission of certain groups of workers should be based on this principle, while also offering migrants and their families opportunities to integrate in our societies. They should not be second-class citizens' (ETUC 2007, p.1).

The reason for the DGB's choice to give pre-eminence to other lobbying channels may be traced back to the absence of a clear agenda at the level of the ETUC on legal immigration matters and to internal divisions, which weakened its position on the wider European political arena. While members of ETUC were usually highly critical vis-à-vis the sole focus of the proposal on highly skilled immigration, they did not consider the subject of high relevance, therefore not digging deep into it. A representative of the ETUC qualified the position of the time as 'ambiguous'. In his terms:

'In the period 2008-2009, ETUC was in favour of a general framework directive valid for all categories of migrants. We complained that the Blue Card Directive was only addressed to high-qualified workers, neglecting the situation of the low-skilled. We were against giving privileges to certain categories of migrants, and not to others. [...] we did not get a clear position from our members. Some did not see the capacity of the high-skilled third-country nationals to move freely within the EU as a good thing; for others, it was' (Interview 10; own translation).

Discussions within ETUC were very high-level and the mobilisation level was low. According to a DGB official, the delivery of abstract theoretical arguments was understandable insofar as the European Confederation did not work with the actors most affected by a European entry and residence permit for non-EU foreign talents, namely firms. As such, it lacked the practical base on which to build a coherent and hands-on position (Interview 9). An additional reason invoked by an official of the European peak organisation is the legal foundation, on which the Blue Card Directive was based. The legal foundation of EU policy-making in the field of legal immigration under the Amsterdam Treaty (Amsterdam Treaty, Article 63) did not touch upon

the consultation of social partners. Hence, the European Commission was not obliged to consult social partners, such as ETUC (Interview 10).<sup>64</sup> In sum, the DGB approved the declarations of ETUC as regards EU-level migration policy – including the EU Blue Card – but opted for alternative routes in order to hold a stronger position in the European political game.

#### *5.2.1.2 Activating direct routes to Brussels*

In parallel to lobbying through European peak organisations, German business and trade union actors also made use of direct channels. These lobbying tactics, also known as ‘direct lobbying’, refer to ‘[...] tactics in which advocates seek to communicate their positions directly to policymakers’ (Mahoney 2008, p.130). German actors made extensive use of direct routes to Brussels. What is more, most of this direct lobbying took place in the European Parliament. A key explanation for this is the strong presence of Germans within the parliamentary staff involved in discussions on the Blue Card Directive proposal. To name a few, the rapporteur, shadow rapporteurs of the SPD and the Left, as well as the advisor of the LIBE Committee were all German. Although this cannot be the sole explanation, the absence of linguistic barriers certainly facilitated the lobbying activity of German interest groups vis-à-vis the EP (Interview 40). The rapporteur recalled the intensity of lobbying actions in the following terms:

‘There were many interest groups, the majority being German. I have always made approximately half-hour appointments. [...] So many were from the same area and represented analogous interests, but nevertheless everyone wanted a one-on-one talk. I had never had that many inquiries for talks, so on those days when it was possible, I met with them from morning to afternoon or from afternoon to evening. I listened to them because it was important to me’ (Interview 40; own translation).

The German Confederation of Skilled Crafts, as was previously noted, turned to Europe despite the low interest of its members for economic immigration, and highly skilled profiles in particular. Apart from utilising the platform offered by the European Association of Craft, Small and Medium-sized Enterprises to voice difficulties faced at home, it mobilised further

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<sup>64</sup> One could object to this that all social partners, including the UEAPME and BusinessEurope, faced the same legal provisions and that the reasons why the ETUC had very little on the Blue Card dossier had mostly to do with the functioning of the ETUC, its use of a particular discourse, which did not accord well with the more business-oriented vision of the economy of some EU officials.

by deploying a lobbying campaign outside UEAPME. Unfortunately, the ZDH representatives I contacted did not wish to communicate on the subject. Nonetheless, it appears highly plausible that the German Confederation turned to the European Parliament to voice its position, at least to the rapporteur. Asked on this particular possibility, the rapporteur of the Directive answered:

‘There was almost no one who was not there. The probability that they [the ZDH] were there is at least 90 percent’ (Interview 40; own translation).

One can imagine that the ZDH representatives set out a rather sceptical position, as regards the use of immigration to fill employment vacancies, insisting on the importance of training locals instead.

Turning to the BDA, the German Confederation of Employers’ Associations launched its own Brussels-based action plan in parallel to participating in discussions on the EU Blue Card within BusinessEurope. It included the direct deployment of lobbying action at the EU level into its strategy mix. This autonomous approach was initiated relatively early in the Blue Card policy-making process and took different forms. The first written evidence of the BDA mobilisation on the EU Blue Card proposal dates from December 2007, that is, two months after the release of the Blue Card Directive proposal and less than a month before the start of discussions in the Council of ministers (BDA 2007a). This document, which, as its name implies, presents the arguments defended by the German Confederation of Employers’ Associations, was used as a communication instrument. Issuing position papers on topics it considers key is common practice for the BDA (Interview 7). In the case of the Blue Card Directive, evidence points to the official launch of Europeanisation dynamics with the sending of this official stance to all major EU-level political stakeholders, including the European Commission and the European Parliament (e.g. the rapporteur, the leading Committee on Civil Liberties, Justice and Home Affairs, German members of the EP).

Prior to issuing its position on the EU highly skilled immigration permit, the German Employers’ Association had established contacts with the European Commission, and particularly with the leading Directorate General Justice, Freedom and Security on the dossier (Interview 7). Among other meetings, the ‘EU Commission’ of the BDA invited the Director of

Directorate B 'Immigration, Asylum and Borders' from DG Justice, Freedom and Security to its premises and presented its position on the establishment of a European policy as regards highly skilled immigration (Interview 7). Nonetheless, contacts with the European Commission played a modest role in the overall BDA strategy (Interviews 12 and 13), as not much could be expected on that side. The Unit in charge of the dossier (i.e. 2005-2008 Unit B2 'Immigration and Asylum', from 2009 Unit B1 'Immigration and Integration') did not opt for extensive consultation. More precisely, no official consultation procedure was launched with social partners during the preparation of the Blue Card Directive proposal. Consequently, the few encounters of the Commission with interest groups took place, to a very large degree, informally. In this context, the European Commission had no specific contacts with German business representatives, including the BDA (Interviews 2 and 7). What is more, I found no sign of direct lobbying vis-à-vis the Council of Ministers. This is hardly surprising as interest group lobbying in this political institution usually take the form of 'indirect' routes via national ministries and domestic political actors more generally (as I shall discuss below).

While the European Commission was a minor target, the BDA deployed substantial energy vis-à-vis the European Parliament (Interview 12). As was the case for most actors interviewed in the course of this research, the Parliament represented a key target in the lobbying strategies of the BDA. The initial move – a 'classic', so to speak – consisted in contacting the rapporteur early on, as soon as her name was known (Interview 40). Shadow rapporteurs<sup>65</sup> on the dossier were also contacted, as well as MEPs working in the different committees, especially members of German nationality and the ones sharing its political inclinations (Interviews 12 and 40).<sup>66</sup> In doing so, the German Confederation sought to convince these MEPs to incorporate its arguments into their own argumentation. Although German MEPs are usually careful not to take sides and to represent Germany as a whole, they are keen to gather concrete examples from both German and non-German interest groups. As recalled by a BDA official, lobbying in the EP was 'successful', taking place in very favourable circumstances (Interview 12). Remarkably, the political dimension at the time in the European Parliament was characterised

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<sup>65</sup> A 'shadow rapporteur' is a member of the European Parliament who works on behalf of his political group for a specific committee on a particular subject.

<sup>66</sup> In general, the BDA has close affinities with the Christian Democrats (CDU/CSU), which belong to the EPP Group in the EP, and has good contacts with the Socio-Democratic Party (SPD), represented under the banner of the PES in the EP (Interview 15).

by a considerable weight of the European People's Party group (Interview 16), which was a positive aspect for the BDA.<sup>67</sup>

Considering common practices of the BDA and keeping in mind the importance of the Blue Card dossier for the Confederation of German Employers, direct institutional lobbying was not the only leverage utilised by this actor. As recalled by an EU official, the BDA organised in-house events, in which the topic of the Blue Card was addressed (Interview 33). Once a year, the BDA Brussels office organises a so-called 'Parliamentary Evening' (*parlamentarischer Abend* in German), together with the DGB (Interview 15). On this occasion, members of the European Parliament from all political sides are invited to take the floor on various subjects and to exchange views on topics of interest. This annual event seemingly constituted a valuable additional channel for the BDA to access MEPs and to communicate its ideas on the EU Blue Card to key political players (Interview 39). Furthermore, the topic was tackled at the annual Brussels-located session of the BDA's 'Europe Commission' (i.e. *BDA-Europaausschuss*) (Interview 15). This commission, which comprises high-level representatives of BDA members, represents and promotes the views of the BDA in various EU political arenas. It is common practice for the president of this commission to activate EU channels in order to spread the position of German employers. As such, political contacts are made and maintained with Commissioners, members of the European Parliament, BusinessEurope, and the German ambassador to the European Union. As reported in a 2010 press release on the departure of the Chairman of the Europe Commission, '[t]hese political contacts have made a major contribution to the influence of the BDA on EU legislation' (BDA 2010). Regarding the making of the EU Blue Card Directive specifically, elements I came across confirm the existence of contacts between members of this commission and the Director, at the time of Directorate B 'Immigration, Asylum and Borders' of the European Commission (Interviews 12 and 13). On one occasion, the Europe-Commission of the BDA presented the position and preferences of German employers to this official of the European Commission.

In contrast to the BDA, the German Confederation of Trade Unions exhibited a low level of supranational investment in the early days of the Blue Card policy process. Given that its

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<sup>67</sup> Considering that centre-right ideas were also prevalent in the Council of Ministers and that the German delegation did lean towards BDA's preferences, the situation was, indeed, ideal.

central concern was to intensify its work towards the European Parliament, most of its lobbying activity as regards the Blue Card dossier occurred at a later stage (Interview 9). The DGB also took the 'indirect' route via the Council of Ministers, which will be analysed in the section below. A DGB representative described his experience as regards the rationale underlying European lobbying in these terms:

'[...] these attempts to influence officials of the [European] Commission (Directorates, Units) are often unsuccessful. One can modify three sentences, perhaps, but the basic orientation of politics cannot be altered. A fundamental policy orientation can only be influenced when either 4-5-6 Member States have a common attitude, or when they say 'no' and cast doubt. Everything else is small changes that can be made. Major changes can only take place in the EP and in the Council.' (Interview 9; own translation).

The European Parliament was clearly the dominant target of the DGB's direct lobbying strategy in the course of negotiations on the Blue Card Directive proposal. The representative of the German Confederation I met in Berlin explained that 'the primary concern of the DGB liaison office in Brussels was to establish closer contacts with the European Parliament' (Interview 9). Contacts were established with a series of actors within the EP, as the directive proposal was being debated within the institution. As is the case for most actors seeking to be heard by the European Parliament, the DGB contacted the rapporteur of the proposal, who, in the case of the Blue Card Directive proposal, happened to be German. The nationality of the rapporteur constituted a favourable asset for German actors in general, and for the DGB in particular. In parallel, the German Confederation of Trade Unions also got in touch with the different committees in charge of examining the legislative proposal, and more specifically with German MEPs within these committees. As is commonly the case for non EP members seeking to influence a policy-making process, the DGB wished to retrieve the draft report early in the discussion process in order to have sufficient time to suggest amendments to its German in-house interlocutors (Interview 9).

### *5.2.1.3 National channels as means to influence European decision-making*

The activation of domestic channels by German actors was most visible in relation to Council discussions on the Blue Card Directive proposal. Unlike hearings of the European Parliament, meetings of the Council of Ministers are not public, and therefore not accessible to non-members. Consequently, lobbying strategies are indirect, in the sense that actors go through their national ministries (and at times the German Permanent Representation to the EU in Brussels) to try to influence the EU-level policy process. Contrary to the implementation of a directive into national law, no formal procedure frames the relationships between governmental and non-governmental actors (Interviews 9 and 14). In spite of this, the consultation of organised interests by Federal ministries<sup>68</sup> is common practice among German non-governmental stakeholders (unlike what may be observed in France). Representatives of the BDA, the ZDH, and the DGB all confirmed having had contacts with Federal Ministries in the case of the Blue Card Directive. As explained by a representative of the DGB:

“At that time (it is a bit different today), it was common for the Ministry of Labour, for example to consult us [social partners] on Directive proposals of the [European] Commission. We presented our views and there was a discussion. The Federal Ministry would ask us: ‘How do you assess this first draft directive?’” (Interview 9; own translation).

In the case of the ZDH, for which data available is most limited, the interviewee recalled having been asked by the Federal Ministry of Labour and Social Affairs to comment on the Blue Card Directive proposal. The contacted person could not recall whether the ZDH prepared a position paper or not, and the precise form of these exchanges (Interview 4).

Findings on the interactions of the BDA, the DGB and Federal ministries provide a clearer picture on what happened. At home, the BDA targeted the Federal Ministry of the Interior

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<sup>68</sup> ‘In matters affecting the remits of more than one Federal Ministry, those Ministries will work together to ensure that the Federal Government speaks and acts consistently. Prompt and comprehensive involvement is the responsibility of the lead Federal Ministry. [...]’ (Gemeinsame Geschäftsordnung der Bundesministerien (GGO) 2011, Chapter 5, Section 1, 19(1)). Consequently, the leading Ministry ultimately represents the German government in Council negotiations, but the ‘position of Germany’ results from inter-ministerial exchanges. Targeting these different Federal ministries, taking part in discussions with them is therefore an important channel of influence for actors seeking to influence EU-level decisions.

(BMI) (the leading ministry on immigration issues), the Federal Ministry for Economic Affairs and Energy (BMWi), the Federal Ministry of Labour and Social Affairs (BMAS). In parallel, it also presented its position to the German Permanent Representation, and regularly asked for feedback on Council discussions (Interview 12). The DGB, on its side, mainly focused on the Federal Ministry of Labour and Social Affairs. It is not clear whether it also kept in touch with the German Permanent Representation in Brussels. Considering the close connections between German interests and members of government, this would not be surprising. Moreover, both the BDA and the DGB sent their position papers to the above-mentioned Federal institutions and took part in discussions with ministerial representatives.

My DGB interlocutor told me that discussions were largely informal. The format was the same for every proposed directive: officials of the BMAS, together with the DGB and the BDA sat together and discussed the issue at stake and the best way to influence EU-level discussions to serve German interests.<sup>69</sup> The ultimate objective was to clarify the German position on the subject in view of upcoming supranational discussions. Apart from exchanges with the BMAS, meetings also took place with the Ministry of the Interior, albeit along a more formal line. The DGB interviewee recalled that discussions with BMAS mainly took part with representatives of the Department in charge of Europe (and at times of the Labour Market Department), whereas meetings with the BMI often involved the Interior Minister himself (Interview 9).

Beside these classic indirect lobbying routes, conditions specific to the Blue Card Directive policy-making process offered additional tools to German actors, especially to the BDA.<sup>70</sup> Given that the German State enjoyed considerable weight in the European supranational policy-making process, the BDA benefitted from the situation indirectly. As explained in detail above (see chapter 4), the Commissioner for Justice, Freedom and Security, Franco Frattini, wished to avoid another failure similar to the one of the Directive proposal on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities' (Commission of the European Communities 2001). 'Succeeding at all costs' was the leitmotiv of Commissioner Frattini. Given that the German delegation in

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<sup>69</sup> The DIHK might also have taken part in these discussions (Interview 9).

<sup>70</sup> BDA representatives in Berlin were unwilling to collaborate to this research project. Consequently, this passage largely rests on assumptions, based on data collected through other means.



the Council had played a substantial part in the failure of the 2001 Commission Directive proposal covering all third-country nationals indistinctly, limiting German animosity towards the Commission's renewed attempt in the field of legal immigration was key. One way to do so consisted in taking German demands onboard. Against this backdrop, political contacts were established between the cabinet of Commissioner Frattini on one side, the German Chancellery and the Federal Ministry of the Interior on the other. As the draft of the Commission was about to be submitted to the College of Commissioners for formal approval, Commissioner Frattini gave the Germans the possibility to have a final look and to make suggestions (Interview 2).

A third indirect lobbying strategy consisted in activating both German and non-German channels. The idea of the DGB, which made use of this means of action, was that acting with others would increase its influence in discussions on the EU Blue Card. In this vein, the German Confederation worked in close cooperation with its Austrian colleagues, and, to a lesser extent, with its Dutch counterparts (Interview 9). In Austria, the topic of highly qualified immigration of third-country nationals had gained salience in 2002, at a time when the national quota-based system was showing signs of weakness. Considering that demand of the Austrian economy for so-called 'key workers' remained high in spite of active measures that facilitated the arrival of non-EU nationals, a discussion was launched in order to better meet the need of the Austrian economy.<sup>71</sup> In parallel to discussions on the Blue Card Directive proposal at the European level, the Federation of Austrian Industry (i.e. IV), the Austrian Federal Economic Chambers (i.e. WKÖ), together with the International Organisation for Migration (i.e. IOM), deliberated on the needed paradigm shift of the Austrian highly skilled immigration system (Interview 9; Bittmann 2013). The DGB participated in the preparation of the discussion paper issued in November 2008 on the subject (IV *et al.*, 2008). The German Confederation of Trade Unions, which regularly met with members of the German Permanent Representation to the EU, was able to present a common position on highly skilled immigration (the same was done with the Austrians vis-à-vis their Permanent Representation in Brussels). This collaboration between German and Austrian non-state actors is also visible among governmental

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<sup>71</sup> This reflection would lead to the introduction, on 1 July 2011, of the 'Red-White-Red' Card: a national immigration scheme aiming at facilitating the immigration of qualified third-country workers and their families in Austria (for more information see <http://www.migration.gv.at/en/types-of-immigration/permanent-immigration-red-white-red-card.html>).

representatives of both countries. The convergence of agendas of the DGB, the IV and the WKÖ participated in a movement, which culminated with a common German-Austrian voice in Council negotiations.<sup>72</sup>

Talking about indirect lobby routes to Brussels, one should also mention domestic actors, which sought to influence the making of the EU Blue Card Directive at the supranational by targeting domestic actors exclusively. The Federal Association for Information Technology, Telecommunications and New Media (also known as Bitkom) constitutes an interesting illustration of this domestic-based strategy. Similar to the actions of the BDA and the DGB, Bitkom participated in meetings with members of different ministries (i.e. BMAS, BMWi, BMI) and presented its position at these occasions. Since non-governmental actors rely on indirect lobbying channels in order to influence Council-level discussions, activating domestic channels to do so is predictable. Yet, another practice consists in leaning on actors operating at the EU to get one's ideas through to Brussels. As recalled by a former representative of the German IT federation, Bitkom tried to influence national and European discussions through the BDA and the BDI at several occasions (Interview 22). Hence, the BDA was utilised as a supranational relay by an actor that closely followed political work going on in Brussels (see Greif 2007) without taking part in EU-level lobbying himself.

### 5.2.2 Assessing the reasons why some actors went to Europe (and others did not)

On the basis of the hypotheses formulated in chapter 2, this section explores the effects of different variables on the activation of the EU supranational level by German interest groups. As such, it analyses the link between the Europeanisation of actors on one side (dependent variable) and explanatory variables related to group traits, issue area and groups' embeddedness in domestic settings on the other (independent variables).

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<sup>72</sup> Austria and Germany had demonstrated their similar views on immigrants' labour market access in the past as well. It was the case during discussions on the family reunification and the long-term residents directive proposals, as well as during negotiations on the legislative proposal on economic immigration vis-à-vis third-country nationals (see Roos 2013).

### *5.2.2.1 Group characteristics*

#### *5.2.2.1.1 Financial resources*

In part of the literature reviewed above (see chapter 2), resources are expected to influence the tactical behaviour of actors, while other works claim that the relationship between the two is not straightforward. What can be said on the impact of resources as regards German interest groups and their inclination to activate European lobbying spheres?

Overall, findings on German economic non-state actors point to the influence of financial means (i.e. staff size) in their decision to activate the EU level (or not) (see chapter 3 for a justification of the focus on staff size). As such, the data I collected in the field supports Hypothesis 1, according to which interest groups with more financial resources should display more engagement at the EU level in comparison to less endowed counterparts. The amount of available financial means influences actors' behaviour and can ultimately make the balance tip on one side or the other. Yet, in cases when the financial resource variable is useful in explaining the deployment of activity at the supranational level, it is often secondary in comparison to other more prominent factors.

German actors who activated European lobbying channels were generally well-provided for in terms of staff. Whether based in Brussels or Germany, these people could dedicate much time and efforts into following discussions on the Blue Card Directive proposal and into promoting interests of the organisation at the EU level. Hence, in 2009, the Brussels-based office of the BDA comprised two persons (Interview 39), and a team of approximately ten people back home. The ZDH, for its part, had nine persons working in its European office alone, not considering potential colleagues based in Germany (interviewees did not wish to share this information). As far as the DGB is concerned, three persons were based in Brussels and four worked on migration and racism in the Berlin headquarters of the German Confederation (Interview 9). For these big structures, resources – at least regarding staff size – were not an issue. In contrast, smaller structures reported difficulty in carrying out work at the EU level with limited staff. On the side of employers, the representative of the Federal Association for Information Technology, Telecommunications and New Media (more commonly known as Bitkom) described the situation as such:

‘At the time of the Blue Card, Bitkom was not as strong as it is today. Today there are two full-time employees. Back then, one person led the Brussels office, but only half to two-thirds of the time. This person was in the Berlin office one to two days a week and three to maximum four days a week in the Brussels office. These are capacity problems. One has to realistically appraise if one wants to devote high attention to such a topic and correspondingly lots of resources or if one says ‘many other organisations are on it, as it is not just an IT subject, and the BDA, as an umbrella organization, is better positioned to take advantage of such [EU] access’ (Interview 22).

The impact of limited staff size was equally felt by trade unions, such as IG BAU, active in the fields of construction, building materials, forestry and agriculture. Although the primary reason for the non-involvement of this actor had mainly to do with the topic itself, limited resources reinforced its position (Interview 21).

#### *5.2.2.1.2 Group type*

Another interest-group characteristic – group type – is expected to impinge upon the ability of interest groups to target the EU. In chapter 2, I hypothesised that whether an actor represents business or trade unions has a bearing on its behaviour (H2).<sup>73</sup> Along this line of reasoning, German business organisations should be more prone to turn to Europe than actors on the labour side because of who they represent and their membership pattern.

However, the data I collected in the context of this study does not show much disparity between lobbying actions of these two group types. Both activated EU lobbying channels extensively, utilising a mix of both direct and indirect strategies as highlighted above. Further, both had Brussels-based and Berlin-based staff, which followed discussions on the Blue Card Directive proposal closely. If the mobilisation of the BDA at the EU level was particularly strong, the DGB also embarked – arguably on a shorter period – on extensive lobbying campaigns, especially with members of the European Parliament. A larger panel of German actors might have enabled me to identify clear discrepancies in terms of supranational

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<sup>73</sup> Social movement actors such as non-governmental organisations have been left aside, as they did not mobilise during the policy-process of the Blue Card Directive. These actors centre their attention mainly on illegal migration and human rights-related matters.

mobilisation. However, the lack of notable contrast between the Europeanisation of the DGB, and that of the BDA, leads to the conclusion that group type is not easily applicable in predicting interest groups' political supranational moves in the case under study.

The Confederation of German Trade Unions, as its name suggests, is an umbrella organisation, which consists of eight trade unions. Among the latter, IG Metall is the largest affiliate followed by the United Service Union (ver.di). The motor behind the Europeanisation of the DGB on the Blue Card dossier clearly came from the DGB itself, not from its members. As mentioned earlier, IG Metall had no interest in a European fast-track permit for highly skilled third-country nationals and therefore, did not wish to embark on a supranational lobbying campaign (despite attempts by the DGB at persuading the Metalworkers' Labour Union to join its EU initiatives) (Interview 9). It appears that members' characteristics did not affect the decision of the DGB to voice its views at the EU level but findings are obviously inconclusive.

The motivations of the German Confederation of Employers' Associations seem also to have emerged from the organisation itself, and not so much from its members. In light of the collected data, I found no particular link between the very active role played by the BDA in the Blue Card policy process and its members. The BDA members I contacted – territorially-based affiliates, sector- or occupation-based associations – all confirmed that they did not, themselves, engage in any type of Europeanisation (Interviews 18, 19, 20, and 21).<sup>74</sup> Their interest for the EU Blue Card was visibly very limited.

#### *5.2.2.2 Issue area variable*

Several issue-related variables can potentially influence the preferences of actors when it comes to mobilising at the EU level (or not). Two issue characteristics are addressed in turn, namely 'complexity' and 'salience'.

##### *5.2.2.2.1 Complexity*

In order to explain the propensity of some actors to activate European channels to voice their position and express their concerns, the complexity of an issue seems, a priori, an important

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<sup>74</sup> Among BDA members, which agreed to communicate on their lobbying practices, both the BAVC and the Regional Employers Association of North Rhine-Westphalia reported their active participation within the BDA on the Intra-Corporate Transfers Directive, adopted in 2014 (also known as ICT Directive). No such involvement was reported as regards the Blue Card Directive.

factor to consider. As noted in chapter 2, 'complexity' is defined here as '[...] the degree to which a given policy problem is difficult to analyse, understand or solve' (Klüver 2011, p.487). If European decision makers do rely more extensively on outside expertise in order to build up their stance on complex issues, non-governmental actors should be stimulated to mobilise in an EU environment open to their inputs. As I shall demonstrate, this expectation is at odds with findings regarding the European Commission, but offers promising prospects when applied to lobbying in the European Parliament.

Highly skilled immigration, and more generally legal immigration, is a highly complex subject, in the sense that it is very technical and requires the expertise of knowledgeable persons in the area. Several interviewees emphasised the 'technicality' of the topic (Interviews 16, 17 and 40). As highlighted in chapter 4, the attempts of the European Commission to set up a European immigration policy stirred constant resistance from both governmental and non-governmental actors, with German stakeholders vigorously resisting the idea. Hence, the EU Blue Card certainly touched upon a delicate topic. That said, evidence points to the absence of systematic interest group consultation from the part of the European Commission in the field of legal immigration.<sup>75</sup> As one can observe, the complexity of an issue does not automatically lead to more information requests from the part of European Commission officials. The few encounters between European Commission officials and German interest groups on the EU Blue Card took place outside the classic consultation procedure. The Director of Directorate B 'Immigration, Asylum and Borders' at the time recalled having met German employers' federations (among which most probably the BDA) at the Permanent Representation of Bavaria in Brussels. He added:

'At the time, relations between the Commission and interest groups were very weak. Lobbying was not as systematic as it is today. There was no such active lobbying as we sometimes see today. Interest groups did not seek contacts at the highest level and did not pass on strong political messages related to their interests. To understand, I come back to the decision-making mechanisms

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<sup>75</sup> At the time of discussions on the EU Blue Card permit (2007-2009), the European Commission was just setting foot in the field of labour immigration. Consultations with interest organisations have become more systematic since then, as shown by numerous exchanges on the revision of the Blue Card Directive in 2016 and 2017 (Interviews 2, 7, 10 and 13).

specific to justice and home affairs, and migration in particular. Within the Council, Interior Ministers are the ones in charge of migration issues. Due to the very nature of their portfolio, their outlook on migration usually concentrates on controlling access to the country and on fighting attempts to enter and stay illegally on national territory. This is where their contribution to defining the European political agenda on migration ends. However, since the Blue Card deals with economic migration, it has much more to do with labour market than with border control, therefore falling into the responsibilities of Employment Ministers. Yet, Employment Ministers are not the ones with decision powers in the Council in this policy domain. Perception is therefore diffracted' (Interview 13; own translation).

A European Commission official confirmed the absence of systematic consultations, adding that most of the contacts with outside stakeholders occurred at the political rather than technical level:

'We [Unit B2] did not do much specific consultations. [...] We had no specific contacts with German business representatives. Our Commissioner met all the time with leading figures from politics and from business, left and right. So Mr Frattini was quite active and he actually used this Blue Card for his own political purpose extensively. But at the technical level, in the preparation of our works, no. We knew pretty well what the interests were [...]' (Interview 2).

The relationship between the complexity of highly skilled immigration and the Europeanisation of German actors was arguably more visible in the European Parliament. As underlined above, the EP was the major lobbying scene for German stakeholders during discussions on the Blue Card Directive proposal. The wide access granted to interest groups in general may be explained by the concern of certain MEPs to gather as many positions as possible in order to improve their understanding of the issue and to ultimately make their own mind on a multi-faceted topic. The need for external inputs is helpful in explaining the vast mobilisation on the part of German business organisations, private firms and trade unions. The rapporteur of the Blue Card Directive herself was particularly open to outside inputs and

stressed the added value of these informative exchanges in understanding the different aspects raised by the Blue Card Directive. As she explained:

‘It is important to me to listen to many positions, why something might be problematic if incorporated in a directive. I have to listen to everything and make a picture of it. But ultimately, *I* make the decision. This is a very personal way of doing things’ (Interview 40).

#### 5.2.2.2.2 *Salience*

The effects of issue-related factors on the inclination of actors to operate at the supranational level may also be investigated by considering salience. Understood here as an endogenous phenomenon, the latter is defined as the extent to which interest groups are willing to dedicate time and energy to a particular policy issue (a detailed understanding of salience is provided in chapter 2). Evidence from German actors reinforces the general idea that salience is key in explaining the Europeanisation of actors. In line with Hypothesis 4, results indicate that high salience determines the activation of EU routes by German actors to a large degree. Said differently, the importance actors attribute to highly skilled immigration (whether major, minimal or non-existent) goes a long way in explaining why certain actors mobilise at the supranational level, while others do not.

It should be stressed, however, that there are cases where other factors are more useful in explaining actors’ behaviours. The absence of Bitkom from the European scene, for instance, has much more to do with insufficient staff than anything else. Its intervention in the press in favour of the EU Blue Card, its calls for a domestic labour market more largely open to foreign talents rule out a dearth of interest for the European project (Bitkom 2007, 2008; Frankfurter Allgemeine Zeitung 2008). The salience variable is also difficult to apply to the German Confederation of Skilled Crafts in light of the information I managed to collect. The ZDH deployed much lobbying activity in spite of a small interest of SMEs in attracting highly qualified persons from beyond the EU. Given that representatives of this organisation did not wish to communicate on their lobbying strategies, I can only assume either that leaders of the organisation decided to mobilise at the EU level for strategic reasons in spite of the very scant interest of members in the issue, or that other broader factors than the issue itself explained its behaviour.



Among actors for which the salience of highly skilled immigration played a role in their strategic choice, a number of interviewees emphasised this particular explanatory factor upfront. The link between high salience and high lobbying intensity was most visible in the case of the BDA. The expansion of the employer confederation's activities to the EU level was, first and foremost, motivated by the desire to circumscribe the EU Blue Card. Since the rediscovery of German employers of economic migration in the late 1990s, the BDA had lobbied extensively at home in favour of more 'demand-oriented managed migration' and fewer bureaucratic hurdles (BDA 2002). The introduction of a labour migration recruitment programme targeted at IT specialists (named 'Green Card') in 2000, together with the 2001 report of an independent Commission on immigration (Unabhängige Kommission 'Zuwanderung' 2001) headed by CDU former president of the Bundestag Rita Süssmuth, which suggested a new quota-based migration law paved the way for a recognition of the necessity to adopt new legislation in the field of immigration (Cyrus and Vogel 2005). Academics, legal experts and social partners took active part in these discussions, on the basis of which they built their own positioning on labour immigration (among other topics) (Interview 9). Following the publication of the Commission report, the Ministry of the Interior launched an immigration bill, which ultimately became the 2005 immigration law (i.e. 'Law on the management and limitation of inward migration and the regulation of the residence and integration of EU citizens and foreigners'). Although the idea of immigration quotas, dear to German employers, was not included in the final text, employers obtained, through lobbying campaigns, the creation of migration routes for highly skilled wealthy persons (see Art. 19 of the Residence Act). In such a business-friendly climate, the federal government granted favourable concessions following a meeting of ministers in Merseburg in August 2007, including the lowering of the minimum income for highly qualified workers (Federal Ministry of the Interior and Federal Ministry of Labour and Social Affairs 2008, p.3).

Against this background, the BDA wished to avoid (or at least limit) the intrusion of the EU in labour immigration policy via the Blue Card Directive, which could jeopardise the influence of the confederation at home. Because of that, the German organisation insisted on the need for Member States to keep full latitude in setting up their national immigration schemes. As such, the right of EU members to set up quotas had to be preserved. In the view of the employer confederation, the Blue Card should ultimately 'coexist' with national systems and

not replace them, as initially envisaged by the European Commission (Interviews 7 and 12, see also BDA 2007a, 2007b and 2008b).

On the labour union side, the Europeanisation of the DGB displayed salience-related characteristics as well. The attention given to immigration policy by the German Confederation of Trade Unions is useful to explain its EU-level mobilisation. On which arguments was the interest of the DGB for the Blue Card Directive based? First, in contrast to the BDA, which mobilised particularly on highly skilled immigration, '[...] the DGB considered that a horizontal approach to the management of legal migration [was] more appropriate than the creation of opportunities for immigration in individual economic sectors or profession' (DGB 2008, p.9). Equal treatment for all migrants was a cornerstone of the position of the German Confederation.<sup>76</sup> Furthermore, it rejected the idea that migration management should bridge the short-term expertise gap faced by businesses, suggesting instead to create long-term immigration perspectives for newcomers. The Blue Card Directive was therefore included into a wider conception of immigration policy, similar to the one adopted in the 2001 Directive proposal on the conditions of entry and residence of third-country nationals for economic reasons.

The interest of the DGB for the Blue Card Directive itself, which – as I argue here – incited the organisation to activate EU channels, further rested on the rejection of the very idea of a dearth of workers, repeated by the business world and taken over by the European Commission (see chapter 4). 'In view of the mass unemployment in the majority of Member States and disproportionately high unemployment, the DGB has consistently rejected the Commission's position' (DGB 2008, p.9). Rather than focusing on third-country nationals, the DGB was of the opinion that priority had to be given to workers from countries that joined the European Union in 2004, for which transitional arrangements were still in force. What is more, in disagreement with the BDA (and German employers more generally), the German Confederation of Trade Unions pointed at the importance of setting the minimum salary high enough to avoid wage dumping (DGB 2008).

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<sup>76</sup> The DGB held the same position already in its opinion on the 2001 Commission's Directive proposal on legal immigration, as well as in its opinion.

### 5.2.2.3 *Domestic institutional characteristics*

As described above, several big German actors exhibited a high degree of multi-level lobbying activism in the case of the EU Blue Card Directive. These interest groups were well embedded in their domestic mode of interest intermediation. This leads to the question whether the multi-level strategies of actors are affected by their ability to lobby decision makers domestically. There are good reasons to give a positive answer to this interrogation in the German case.

The idea according to which well-embedded domestic private stakeholders are better equipped and more inclined to europeanise their lobbying strategies rests on the assumption that close relations between interest associations and decision makers reverberate into the European environment (see Beyers 2002, p.593). Along this line of reasoning, EU-level lobbying patterns displayed by German private associations were favoured by a system that formally incorporates private interest organisations into policy processes. Although constant dialogue between employers, unions and governmental officials alone does not account for the ability of German actors to turn to Europe, it helps them to navigate in European spheres of influence. In order to demonstrate this, the discussion below first describes the legal characteristics of the German system, before exploring extensions of this national interest intermediation scheme at the European level.

#### 5.2.2.3.1 *The legal framework of the German interest intermediation system*

In Germany, the position of interest groups – including labour unions and employer associations – is legally established. Article 9 of the German Basic Law (or *Grundgesetz*, GG) makes explicit reference to both the freedom of association (*Vereinigungsfreiheit*) and the freedom of coalition. In that sense, all Germans have ‘the right to form associations and societies’ (Grundgesetz für die Bundesrepublik Deutschland 1949, Article 9(1)), as well as ‘[t]he right to form associations to safeguard and improve working and economic conditions is guaranteed to everyone and to all trades and professions’ (ibid., Article 9(3)). This said, contrary to what can be observed regarding political parties, interest organisations are not given a specific role in the national political decision-making process (e.g. Kropp 2005, p.666; Kuhne and Gabriel 2012, p.59). Instead, they constitute one type of association among a myriad of others (Reutter 2001, p.78; Grote *et al.* 2007, p.147).

The reason for this rather general allusion to ‘associations’ has to do with the conception of the freedom of association itself, which has taken root on a divide between the state on one side and society on the other. The freedom of association is perceived as an individual right that ought to be preserved from state intervention (see Reutter 2001, p.79). The preservation of freedom of association includes the so-called ‘negative freedom of association’, or the right for a person not to be a member of an association. This translates into the fact that clubs, associations and societies cannot be forced to accept everyone as members (Kropp 2005, p.665). The freedom of coalition, for its part, constitutes a fundamental human right enjoyed by Germans and non-Germans alike. In principle, the state is obliged to defend this right in cases when it is threatened by a private third party (see Reutter 2001, p.79). It should be underscored that these legal provisions do not apply to public law bodies, such as business chambers (e.g. Chambers of Industry and Commerce, or Industrie- und Handelskammern, IHK; Crafts Chambers, Handwerkskammern, HWKs), whose membership is compulsory. Created by the state, these chambers are not private-law associations and are therefore not covered by the concept of ‘association’ of Article 9(1) of the Basic Law (see Kropp 2005, p.665).

In addition to the legal framework provided for by the Basic Law, actions carried out by voluntary interest organisations are also affected by the rules of the Bundestag (*Geschäftsordnung des Deutschen Bundestages und Geschäftsordnung des Vermittlungsausschusses* (GO) 2010). Experts and interest representatives can participate in public hearings if they are registered in the interest group public register of the parliamentary chamber (*ibid.*, Section 70). More importantly according to some (e.g. Reutter 2001, see also Ismayr 2009, p.546), ministerial rules (officially known as ‘Joint Rules of Procedure of the German Federal Ministries’) also impact the ability of organised interests to voice their position and be heard by public institutions.<sup>77</sup> More specifically, the ‘Magna Carta of interest influence’ (Weber 1976, p.177) is arguably to be found in section 47 of the Joint Rules of Procedure on the participation of the federal states (or *Länder*), local umbrella organisations, expert groups and organised interest groups. This section specifies that either at the local or federal levels, organised interests whose interests are affected by a draft legislation should be

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<sup>77</sup> The German civil code is not mentioned here, as it concerns the obligations of interest associations. As noted by Grote and colleagues, ‘[t]he BGB does not regulate or even mention the external relations of voluntary associations’ (Grote *et al.* 2007, pp.147-148).

consulted in due time, prior to the adoption of a bill by the parliament (Gemeinsame Geschäftsordnung der Bundesministerien (GGO) 2011). Emphasis put on the early consultation of interest groups (ibid., Section 47(4)) is key, given that the overall objective of lobbyists is to obtain amendments prior to the vote of the bill (Ismayr 2009, p.546).

#### 5.2.2.3.2 *Domestic channels of influence and access to Europe*

The ‘corporatist’ denomination has often been used to describe the German consensus-based interest intermediation system characterised by close and constant cooperation between well-organised civil actors and governmental representatives (Reutter 2001, p.75; Kuhne and Gabriel 2012, p.62; see also Schmidt 2015 on ‘liberal corporatism’).<sup>78</sup> In contrast to the French conception of the state viewed as the guardian of the public interest, the German state is seen as stemming from the free articulation of civil society interests. The latter, by communicating societal requests to policymakers, increase the probability for these concerns to be taken into consideration and add democratic legitimacy to political decisions (Rudzio 2006, p.56; see also Schmidt 2015, p.25).

In a context where advisory committees and consultation commissions abound, German interest groups can choose from a myriad of access-points at all levels of the federal system to influence policy making. Interest representation is an integral part of the German legislative process (Schöler 2015, p.2; Rudzio 2006, p.56; Kuhne and Gabriel 2012, p.60) and as such, belongs to the political culture of the country. Given that German interest groups are used to taking part in national policy-making, they can arguably grasp European opportunities more easily than actors operating in statist systems. Moreover, as shown earlier, not all routes are available to all stakeholders and the route-mix differs across actors. At the domestic level, these differences are said to derive from access to governmental actors. Those deprived of this channel (or with limited access) find alternatives by turning to the Bundestag and political parties (see Kropp 2005, p.680). Ultimately, it is important to note that although German interest group representatives have a variety of routes at their disposal to access decision makers, legislation is ultimately adopted by decision makers themselves. This also applies to the national and European levels.

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<sup>78</sup> For a discussion on the degree to which ‘West’ Germany displays corporatist traits, see Siaroff 1999.

For German interest groups, targeting the Federal Government (*Bundesregierung*) – primarily federal ministries – is crucial in their endeavour to influence policy making (e.g. Ismayr 2009, p.546).<sup>79</sup> As shown above, both the BDA and the DGB utilised this channel to convey their views on the Blue Card Directive proposal. Sabine Kropp reports that 50 to 65% of all legislative proposals are introduced by the federal government. What is more, federal governmental bills have a particularly high success rate further down the policy-making process (Kropp 2005, p.682) in comparison with draft bills initiated by the national Parliament (i.e. Bundestag) and the legislative body that represents the 16 federal states (i.e. Bundesrat). This may be explained by the fact that, '[a]s the central level of the executive, [the Federal Government] has most experience of the implementation of legislation and possesses direct knowledge of where new statutory provisions are needed in practice' (Deutscher Bundestag 2016).

Ministerial services (and especially *Referate*) are interest groups' first port of calls (Kropp 2005, p.682; Rudzio 2006, p.76). This is hardly surprising, given that they are the ones responsible for drafting bills and that interest groups are usually keen to engage early in the policy-making process (Rudzio 2006, p.76). Regarding the Blue Card policy-making process, the BMI advisor in charge of writing the draft legislation – from Service M3 'Right of foreigners' – recalled having received the position of the BDA (Interview 41). What is more, the 'Joint Rules of Procedure of the German Federal Ministries' (GGO) require the government to incorporate interest groups in this preparation process. A representative of the Federal Ministry of the Interior described this obligation in the following terms:

'The legal procedure is formalised and the GGO is intended to include associations and top organisations in the legislative process. This is practically a binding regulation for ministries. The Federal Government has adopted these common rules of procedure and we must stick to it when we make laws at the national level ' (Interview 14; own translation).

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<sup>79</sup> The Federal Government comprises the Federal Chancellor and federal ministries (Article 62 GG). High-level discussions between the Chancellor and interest representatives are rare (Kropp 2005, p.682). By contrast, more or less formal exchanges between federal ministries and interest groups abound.

Under a multi-level perspective, it is key for non-governmental actors to maintain close contacts with ministerial representatives who participate in Council discussions early on in the policy process, especially since interest groups do not have access to these supranational negotiations. In the case of the Blue Card policy process, the relationship between the BMI and interest organisations determined, to a prominent degree, the ability of the latter to keep a foot in the political process, although indirectly.

At the national level, it is common practice for interest representatives to take part in ministerial advisory committee meetings (or *Beiräte*), particularly those who can provide high-level expertise. They also utilise this channel to express their ideas and voice their preferences on the issue at stake (see Mann 1994, p.191 on the difficulty in pinpointing the two separately). As highlighted above, evidence provides support that exchanges took place between private interests and national executives, where the provisions of the Blue Card Directive proposal were discussed (Interview 9). This institutional mechanism is all the more perennial as it does not exclusively rest on interest organisations' attempts to influence the policy-making process. Beyond mere compliance with the 'Joint Rules of Procedure of the German Federal Ministries' (GGO) alluded to above, Federal Ministries view the consultations of civil society actors as a way to gain both efficiency and legitimacy. As reported by an interlocutor from the Federal Ministry of the Interior:

'We [the Ministry of the Interior] want to avoid the situation where an interest organisation enters the legislative process through a member of parliament and we must take it without notice. If we do this right from the beginning, we know the different positions of interests and probability is higher that our draft law will pass through Parliament than if we hear interests later on. [...] Regarding legitimisation, you can later say to opposing groups that we have incorporated them at an early stage and that we tried to take their views into consideration' (Interview 14; own translation).

The durability and stability of the German institutional mechanism is further strengthened by informal contacts and long-term person-to-person relationships between interest and ministerial representatives. Here as elsewhere, people with a similar professional or technical background, or coming from the same region or sharing the same origins, tend to cooperate

and build amiable relationships. These ‘personal coalitions’ constitute powerful channels of influence for introduced non-state actors, not least in cases where a ministry relies on a single external information-provider (Kropp 2005, p.683). As illustrations, close relations are noticeable between large business organisations (e.g. BDI, BDA) and the Federal Ministry for Economic Affairs and Energy, whereas trade unions (e.g. DGB) stand closer to the Federal Ministry of Labour and Social Affairs (Rudzio 2006, p. 77; confirmed in Interviews 9 and 12). Although difficult to research, camaraderie does facilitate Europeanisation. As an illustration, interest group representatives can benefit from long-term relationships with national policymakers evolving in a multi-level setting. The absence of such a network acts as a serious brake to Europeanisation (Interview 22).

Besides participating in discussions with the Federal Government, interest groups also target the national Parliament. As hinted above, the Bundestag provides access to interest groups and experts via its Rules of Procedure (GO 2010, Section 70). In line with the latter, actors pursuing lobbying activities vis-à-vis the Bundestag or the Federal Government must be registered in the list of interest associations<sup>80</sup> in order to be given access to Bundestag premises and to take part in public hearings of Bundestag permanent committees. These permanent committees play a key role in the work of the Bundestag. They are therefore particularly important to target for interest-group representatives. Comprised of members from different parliamentary groups, each permanent committee has the crucial task of ‘preparing the decisions on the Bundestag’ in one particular policy area (GO 2010, Chapter VII, 54(1)).<sup>81</sup> Similar to consultations organised by Federal Ministries, these hearings have at least two facets. On the one hand, they constitute a means through which Members of Parliament gather expertise and refine their understanding of topics under scrutiny before the German Bundestag makes decisions. On the other hand, consulted experts utilise these public hearings as a stage to voice their views and subsequently leave their mark on the policy process (Schöler

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<sup>80</sup> Updated annually since 1972, this public document is designed to cast light on which interests are engaged in lobbying activities. It specifies such things as an association’s sphere of action, the names and number of its members. However, being registered does not grant automatic access to the Bundestag (Schöler 2015, p.2).

<sup>81</sup> The permanent committees of the Bundestag ‘deliberate on all bills that will have an impact in this field [of expertise] before any decision is taken and attempt to find a compromise at the committee stage that is capable of commanding majority support in the plenary’ (<http://www.bundestag.de/en/committees?url=L2VuL2NvbW1pdHRIZXMvMTk3Njcw&mod=mod479046>, accessed 12 September 2016).



2015, p.2). Employer organisations, for example, are particularly influential within the Committee of Labour and Social Affairs (Kropp 2005, p.681). Moreover, interest groups also try to wield influence on parliamentary decisions by maintaining close contacts with political groups (Reutter 2001, p.94).

These interest intermediation patterns utilised in the Bundestag can be transposed to the European Parliament. Hence, lobbying the National Parliament at times opens doors to the European Parliament, one reason being that staff often navigates from one political institution to another. For instance, the rapporteur of the Blue Card Directive in the EP later became a member of the Bundestag. Contacts made at the domestic level become valuable points of entry into European decision making when a member of parliament becomes an MEP. Apart from personal connections, the Europeanisation of interest groups also occurs via the Political Groups' national delegations. Although most German interest organisations like to claim political neutrality, it is no secret that non-governmental actors have their political inclinations. Their domestic political links may prove useful when addressing the German national delegation of a particular political group. To quote Alan Hardacre, '[National delegations] will be very important power players within the Political Group – because depending on their size, they can influence the positions of the Group on everything from high-level strategy to detailed voting lists and specific amendments' (Hardacre 2011, p.96).

The European People's Party was the strongest political group in the European Parliament at the time of discussions on the Blue Card Directive proposal, and therefore the strongest group in the LIBE Committee, responsible for issuing the opinion of the EP (Interview 16). Within the EPP Group, the German delegation was the largest, and therefore the strongest one. The fact that the rapporteur of the Blue Card Directive proposal was a member of the EPP Group further reinforced the weight of the Germans on the dossier. What is more, the German government of the time (from 2005 to 2009) was formed of the SPD and the CDU/CSU with Angela Merkel as CDU Chancellor. In these circumstances, contacts between the German delegation of the EPP Group and the government in Berlin were intense and constant. The rapporteur – a member of the CDU – worked in unison with the federal government at home. Furthermore, it is plausible that CDU- and CSU-members of the European Parliament

coordinated their positions with Bundestag permanent committees, such as the Committee on the Affairs of the European Union and the Committee on Internal Affairs (Interview 16).

### **5.3 French actors**

#### **5.3.1 Discussion on the degree to which French interest groups targeted EU level venues**

Compared to their German counterparts, French actors were visibly more timid in turning to the EU level during the making of the Blue Card Directive. The empirical evidence gathered shows that both employer federations and labour unions either decided not to deal with the topic of highly skilled immigration altogether or to follow discussions on the EU Blue Card from afar. On the employers' side, the strategies of the major two employers' federations are analysed: MEDEF, the spokesperson of big businesses, and CGPME, the largest association of small and medium enterprises. As regards labour unions, the panel includes CGT, CFDT, FO and CFE-CGC.

##### *5.3.1.1 Lobbying via European peak organisations*

By and large, the Europeanisation of French actors, when indeed present, occurred first and foremost through European umbrella organisations. National employer organisations as well as trade unions favoured this route dramatically over direct lobbying tactics. Apart from this specific EU-level channel, interviewees from the different structures reported no other tactical repertoires. Given the absence of findings suggesting the activation of direct routes to Brussels or the mobilisation of national paths to leave their mark on the making of the Blue Card Directive, the present section encompasses the entirety of the discussion on the French interest groups' Europeanisation.

Unlike the BDA, which activated a multitude of lobbying routes in Brussels, the French Business Confederation confined its activity to one, namely Business Europe. Signs of mobilisation on the part of the MEDEF took place within a rather classic set of internal procedures. As is often done in preparation of Business Europe's official position papers on an issue (see BusinessEurope 2008), members were asked to share their remarks and opinions at an early phase of the policy-making process. In these circumstances, the MEDEF shared its position, which comprised at least two key points: the need to define 'highly skilled workers'

precisely, as well as the importance of setting the minimum wage at a high enough level to ensure high qualification levels (Interview 23). French businesses, as did employers organisations of other EU member states, welcomed the initiative of the European Commission to facilitate the entry and stay of highly skilled third-country workers. Vis-à-vis the exterior, the business association strongly advocated the need to ensure such things as the full respect of the subsidiarity principle or the lowering of administrative hurdles (BusinessEurope 2008). Internally, members shared analogous positions, adopting a consensual view on the subject. In the absence of major dissension within BusinessEurope, the MEDEF expressed its position in a 'business as usual' attitude (Interview 25).

Apart from communicating its position, representatives of the MEDEF reported no other involvement on the topic of the EU Blue Card at the European level. For reasons we shall explore below, an independent lobbying campaign on the topic of highly skilled immigration was not an option for the French Business Confederation, which focused on other dossiers that it considered to be of higher importance. As such, findings indicate that lobbying activities were carried out exclusively by the 'advocate for growth and competitiveness at European level' (BusinessEurope 2016), which activated its 'classic' lobbying repertoire, establishing contacts with European institutions and the Presidency (Interview 24). As confirmed by the person in charge of European affairs of the MEDEF at the time, 'no contact whatsoever was established with the Commission or the Parliament' (Interview 25).

The French Confederation of Small and Medium Enterprises adopted a similar approach regarding the EU Blue Card. As in the case of the MEDEF, the CGPME went exclusively through its European umbrella organisation, the UEAPME. Participation in discussions on the subject within the Social Affairs Committee of the European organisation was the sole Blue Card-related involvement of the French Confederation. As recalled by a representative of the UEAPME, the CGPME was much less vocal within the committee in charge of social affairs than their German colleagues from the ZDH, for whom the lack of qualified workers was an important concern back home. The interviewee added that the other two French members – the Professional Craft Union (UPA) and the Permanent Assembly of Chambers of Trades and Crafts (APCMA) – were rather silent (Interview 26). Hence, whereas the ZDH used the peak

organisation channel extensively (among other routes), representatives of the CGPME somehow went with the flow, without demonstrating much signs of pro-activity.

As far as trade unions are concerned, their EU-level activity in the making of the EU Blue Card displays a rather weak intensity. The European Trade Union Confederation – more specifically the ETUC working group on migration and inclusion – was the main Europeanisation channel through which these actors projected to the EU level. It is worth noting at this point that unlike the German trade unions, whose lobbying strategies are centralised within a single entity – the German Confederation of Trade Union – the French representation is rather fragmented. Among the five French members of the ETUC, the three which were interviewed (i.e. CGT, CFDT, and FO) highlighted the fact that going through the ETUC was common practice and that pursuing direct routes to Brussels was certainly not part of their action repertoire. To quote the different interlocutors:

‘We [CGT] went through the ETUC, we are stronger this way’ (Interview 27; own translation).

‘Our mobilisation [CFDT] at the European level took place via the ETUC. The CFDT was not against the Blue Card Directive but did not lobby actively on the subject, given that it was not in phase with our domestic issues, particularly illegal immigration’ (Interview 28; own translation).

‘When it comes to European issues, we [FO] are present within the ETUC and the EESC. Regarding discussions on the Blue Card, our Confederal Secretary [in charge of European and international issues] most probably participated in ETUC meetings’ (Interview 29; own translation).

Furthermore, in the case under study, lobbying the national level in an attempt to leave a mark on European discussions was not envisaged by the actors themselves (the reasons for this are underlined in the next section). In sum, in the case of discussions on the Blue Card Directive proposal – as in many others – French labour unions’ participation in EU-level discussions took place exclusively within their European peak organisation. The absence of direct lobbying at the EU level extended to non-ETUC members, such as the French Confederation of Management – General Confederation of Executives (CFE-CGC). However, in contrast to

French ETUC members that were interviewed, the CFE-CGC did not mobilise on the subject via its peak organisation, i.e. CEC European Managers (Interviews 30 and 31).

### 5.3.2 Assessing the reasons why French actors' lobbying in Brussels was modest

#### 5.3.2.1 *Group characteristics*

##### 5.3.2.1.1 *Financial resources*

How useful are financial resources, understood as staff size, in accounting for variation of the Europeanisation of French interest groups during EU-level discussions on the Blue Card Directive proposal? Unlike what I expected earlier (see chapter 2), the answer to the question varies across actors (i.e. employers' organisations and labour unions). Hence, the preliminary idea according to which resources actors have at their disposal impinge upon their propensity to operate at the EU level needs to be refined in order to grasp the subtlety of French actors' Europeanisation mechanisms. Results presented below demonstrate that insufficient financial resources may at times severely hinder the Europeanisation of actors, particularly when combined with issue-related variables. However, this is not systematic. As observed in the German case, when resources did consolidate strategies of interest groups, they did not constitute the core element of their decisions but came as a supplement that made the balance tilt in one direction or the other.

Turning to more precise research findings, data collected points to the little help of the financial factor in explaining the low Europeanisation level of French labour unions. A representative of the CGT explained that staff size had nothing to do with the absence of the labour confederation from legal immigration-related issues, both at the national and European level. She reported that the reason for the non-involvement of the CGT on the Blue Card Directive specifically was primarily due to the nature of the issue. The lack of interest for highly skilled immigration policy (and legal immigration more generally) from the part of French labour unions at the time of discussions on the Blue Card Directive proposal was a general trend (Interview 27).

On a similar note, a member of the CFDT recalled:

‘Highly skilled immigration was not a subject for us, so the reason for our low level of involvement had to do with the issue itself. Financial resources played no part in this’ (Interview 28; own translation).

The representative of Force ouvrière I interviewed was on the same line (Interview 29).

Considering that the topic itself lied outside of French labour unions’ sphere of action, staff size could not exert any influence on their strategy. At the CGT, for instance, no one monitored European developments on legal immigration policy particularly (Interview 27). Effects of financial resources could have been potentially visible if French labour unions had at least initiated a reflection on highly skilled immigration and were considering intervening at the European level but it was visibly not the case.

The picture is more nuanced as regards business organisations. Financial resources alone do not explain the behaviour of the latter, but findings point to the capacity of staff size to reinforce a situation. As such, actors who had little interest in highly skilled immigration were even less inclined to activate European lobbying channels if their financial means were limited. This observation applies to both the MEDEF and the CGPME. The former Deputy-Director in charge of European and international affairs stressed difficulty deriving from meagre resources. In his words:

‘I had no contact whatsoever with either the Commission or the Parliament. To be frank, I had no time. Things would perhaps have been different if I had had a team, and I would have done what my German colleagues do, that is deal with all European social subjects. But I was alone (as my successor is)’ (Interview 25; own translation).

Here, the less-resourced MEDEF was less able to utilise multi-level lobbying opportunities than its well-equipped German counterpart, the BDA. Although, once again, finances themselves did not determine the activation (or non-activation) of European channels, data reveals that the number of staff either encouraged or severely refrained actors’ Europeanisation.

The same pattern is evident for the Confederation of Small and Medium Enterprises. Here also the actor's decision was primarily based on the nature of the issue at stake (i.e. highly skilled immigration), but financial resources (the dearth thereof) ultimately reinforced its choices. In explaining the low level of investment of the CGPME in EU Blue Card negotiations, the Head of the CGPME liaison office in Brussels made reference, among other things, to the team of three persons dealing with EU affairs (two based in Brussels and one – the interviewee – located in Paris). Given the relatively small staff size, one had to be particularly selective when it comes to activating European lobbying routes (Interview 32). In sum, the lower its financial resources, the more an organisation has to concentrate on topics it considers key and leave aside others.

#### *5.3.2.1.2 Group type*

Considering the hypothesis according to which business actors are more prone to turn to Europe than labour unions (H2), empirical evidence challenges this expectation. In fact, I found no such clear-cut pattern regarding French stakeholders. The low level of Europeanisation throughout the entire population under study does not allow for the drawing of clear connections between the group type and lobbying efforts in Brussels. Whether group type determines actors' activation of EU lobbying routes in the making of the EU Blue Card Directive is therefore doubtful. Data demonstrates a low interest in discussions on the EU Blue Card directive proposal from both types of actors. This is hardly surprising, considering the absence of organised interest groups promoting greater immigration in France (Guiraudon 2001).

To illustrate this, let us compare how both types of actors fared in terms of activation of supranational lobbying channels. On one side, French labour unions – although traditionally poorly coordinated – displayed Europeanisation patterns ranging from minimal to non-existent. As presented above, unions such as the General Confederation of Labour (CGT), the French Democratic Confederation of Labour (CFDT) and the General Confederation of Labour – Workers' Power (FO) participated in meetings of the ETUC, yet without dedicating much time and effort to a topic that they considered to be of low importance. As for the French Confederation of Management – General Confederation of Executives (CFE-CGC), it did not invest at all in this issue on the European scene.

Turning to employers' organisations, results indicate low levels of supra-national activity. As in the case of labour unions, their action repertoire consisted exclusively in participating in their respective European umbrella organisation's meetings. What is more, findings show that, unlike their German counterparts, the involvement of both the MEDEF and CGPME in their respective European umbrella organisation on the topic of highly skilled immigration was modest.

### *5.3.2.2 Issue area factor*

An additional source of variation, which may influence the Europeanisation of actors has to do with the issue itself. At first sight, findings regarding French actors support the idea that policy traits are key in explaining strategic choices adopted by both business and labour organisations (see chapter 2). On closer inspection, however – and not denying the effects of the issue variable on the turn to Europe – my results indicate that the sub-factors 'technicality' and 'salience' do not apply particularly well to French interest groups, or, at least, do not follow the expected trajectory.

#### *5.3.2.2.1 Complexity*

Pursuant to the first issue-related hypothesis, actors should be more prone to exploit multi-level lobbying routes in cases of complex, technical policy issues (H3). I expect Europeanisation to take place especially when actors act as information-providers to European institutions in demand of external input. Hence, access to legislators should grant interests favourable conditions to express their positions, and therefore incite them to europeanise their lobbying activities (see chapter 2). However, empirical findings is too scarce to establish a clear link between the complexity of the issue on one side and the (low) Europeanisation of actors on the other. Two findings deserve nonetheless to be highlighted.

First, the demand for external expertise from the European Commission was quasi inexistent on the Blue Card dossier. This arguably did not facilitate access to representatives of this institution. As explained by the Director for Immigration, Asylum and Borders (European Commission) at the time of discussions on the EU Blue Card permit:

'Interest groups had occasional contacts with colleagues who were drafting the text at that time. [...] Lobbying was definitely not as systematic as it is today.



There was no such active lobbying, we did not have particular contacts with interest groups. The groups' approach was very different from lobbyists seeking contacts at the highest level and passing on strong political messages related to their interests' (Interview 33; own translation).

Moreover, the Head of Unit (acting) in charge of 'Immigration and Integration' (European Commission) at the time, recalled that:

'[...] the European Commission did not organise specific consultations on the topic of the EU Blue Card, but went for an Impact Assessment instead. Consultations with national employer associations and trade unions were carried out in this context, by a consultant, Ernst & Young Rome' (Interview 34; see also Commission of the European Communities 2007c).

Second, providing information to European institutions on highly skilled immigration was not a primary concern for French actors (Interviews 27, 29, 23, 28, 32). Yet, would the latter have been more active at the EU level, had the demand for expertise from the Commission been higher? There are reasons to seriously doubt this explanation, considering that no sign of mobilisation of French interest groups was found in 'the place to be' to lobby on the EU Blue Card, that is the European Parliament. The rapporteur of the Blue Card dossier herself could not recall any activity from the part of French interests (Interview 40). In addition, labour organisations such as the CGT did not have expertise on the topic to offer at the time (Interview 27).

#### 5.3.2.2.2 *Salience*

The second issue-related factor has to do with salience, defined here as '[...] the attention that issues raise among interest groups' (Klüver 2011, p.488). Salience refers to the degree to which interest organisation wish to dedicate time and efforts to a particular policy issue. Does salience matter when it comes to deciding whether or not to engage in EU-level lobbying activities? If so, what effects did salience have on French actors' Europeanisation patterns in the case of the Blue Card decision-making process? Evidence displays a clear correlation between the low salience of the subject and the low level of involvement at the supranational level. In comparison to the German case that exhibits a link between high salience and

substantial EU-level activism from the part of domestic interest organisation (see above), the French case is a kind of reversed image.

Highly skilled immigration, unlike integration, citizenship or French national identity<sup>82</sup>, is not a subject of debate in French political circles and among civil society actors (see, for example, Menz 2009, p.133). Given the low salience of the topic at home, French actors were not inclined to do much on highly skilled immigration at the EU level. In line with what was expected above (H4), low salience led to low levels of Europeanisation. Therefore, the presumed correlation between low salience and low involvement in Brussels is confirmed. As highly skilled immigration stirred minimal interest from the part of actors, embarking on costly, time-consuming lobbying efforts in Brussels did not make much sense.

Interviewees from both employers' and trade union organisations systematically began their account with allusions to their (low) interest for highly skilled immigration policy. The usage of European channels was seen by actors themselves as heavily dependent upon their (low) interest for the topic.

A first illustration of this is provided by a MEDEF representative:

'I worked very little on non-strategic topics, such as the EU Blue Card. Our members, with whom I was regularly in contact, had no interest in it. I do not remember having consulted them on the subject and, themselves, never raised the need to hire foreign highly qualified persons. Companies, especially big ones (but it is the same for networks of smaller firms), did not face particular difficulty in finding qualified personnel they needed. So this facilitation was not needed' (Interview 25; own translation).

On a similar note, the Director of Social Affairs of the CGPME reported:

'The CGPME is not opposed to the Blue Card. There is no fundamental opposition, but it is secondary. What concerns the French government, French

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<sup>82</sup> Unlike what may be observed in Canada or the United States, French national identity has always been strictly separated from immigration. This, Catherine Wihtol de Wenden explains, comes from the fact that "[...] French national identity was built upon the myth of an ethnically homogeneous population, as well as idea of 'social contract' and the 'political community of citizens' [...]" (Wihtol de Wenden 2011, p.67).

companies, is the ICT Directive. For companies with less than 50 employees, hiring foreign highly skilled workers, from the EU or beyond, is the least of their concerns. Small and medium industries may potentially be interested but it represents a tiny part [of their personnel]. We [SMEs] do not need a large influx of foreign labour' (Interview 35; own translation).

The low attention of French business organisations towards the Blue Card Directive, in fact, characterised their position. As shown above, this lack of interest transpired in their very low mobilisation on the subject at the EU level. Unlike the German BDA, neither the MEDEF nor the CGPME invested time and energy into direct lobbying campaigns. A key reason for this comes from the fact that highly skilled immigration policy was a minor issue for the French business community.

Trade unions, for their part, also repeatedly explained their lack of mobilisation at the supranational level by referring to the low salience of highly skilled immigration policy.

The CGT Confederal Secretary in charge of migrant workers explained:

'All the better that the Blue Card exists, but highly skilled workers is not a priority for us. At the time, we were mostly concerned with undocumented workers. [...] No one comes to us on this subject [highly skilled immigration]. By contrast, we do mobilise on intra-corporate transfers in order for foreign employees to enjoy the same rights as nationals. We fight social dumping' (Interview 27; own translation).

The CFDT held a similar position, as clarified by Confederal Secretary in charge of immigration and liberties:

'The CFDT is not opposed to the Blue Card Directive but has never asked for this residence permit. The statement is that there was no demand. Illegal immigration was a real immigration issue. For the CFDT, the highly qualified permit was an answer to a non-asked question. Pressing problems, such as undocumented workers, were not addressed by the European Blue Card' (Interview 28; own translation).

These explanations emphasise the secondary nature of the Blue Card Directive for French labour unions that centred their attention on themes such as illegal immigration and the promotion of human rights. As explained in detail in chapter 4, the Blue Card permit is essentially a labour-market instrument, which ultimately serves a competitiveness-centred purpose. As one can see, the perspectives of the European Union and of French unions on immigration are radically different.

### 5.3.2.3 *Domestic institutional characteristics*

Beside actors' qualities and issue-related factors, the domestic interest intermediation system in which an actor is embedded presumably also explains movement to the European level (or the absence thereof). In keeping with my assumption (H5), I find evidence that the French so-called 'statist' system makes the move to Europe of interest groups less likely.

#### 5.3.2.3.1 *The French interest intermediation system and its legal base*

The French system of interest intermediation has often been defined as 'statist' (see Schmidt 1999b; Schmidt 1999c). Statism (*étatisme* in French) is characterised by the predominance of a strong and unitary government in the public arena without much involvement of civil society actors. As written by Jeffrey M. Togman, 'French political institutions since the *ancien régime* have created a highly centralized governmental system, resisting almost all efforts to separate powers among branches of government or to devolve power to sub-national units' (Togman 2002, italics in original p. 15). Going back to the French Revolution, the 1791 Le Chapelier law prohibited the association of workers and employers. As explained by Jean-Luc Putz, everyone had to be isolated and '[...] isolation was seen as a necessary condition for freedom. Employer and employee, individually, deemed to be on an equal footing, were supposed to debate working conditions freely' (Putz 2012, p.51). Things evolved somewhat with the promulgation of the freedom of coalition in 1864 by the Ollivier law for both workers and employers. Twenty years later, the 1884 law (*loi Waldeck-Rousseau*) allowed trade unions to come into existence, institutionalising the right to set up associations. Moreover, the Law of 1901 (*loi 1901*) put an end to the ban on voluntary association and gave associations a legal status. Consequently, after 1901, interest organisations could register as a trade union or an association according to the law of 1901 (Saurugger 2007a). While these legal developments opened doors for interest representation, the legislator was careful to limit the activity of trade unions 'to the strict

defense of the professional interests of the employees' in order to prevent any political outburst (Putz 2012, p.51).

The relationship between the French state and interest groups rests on the notion of the so-called 'common welfare' (or *intérêt général*). Based on the idea of serving this *intérêt général*, the state decides which actors to let into its circles of influence and which ones to exclude (or simply ignore). Being an acknowledged social partner of the French state and participating in various consultative bodies does not, however, presuppose the effective capacity of groups to have their say in political matters. Enjoying political influence is all the more arduous than the system conveys a general mistrust vis-à-vis interest groups, perceived as subversive elements capable of endangering democracy and the general interest through their advocacy of particular interests (see Mény 1986). There is a strong belief that any intermediary elements between the state and citizens should be prohibited. This explains why the French government tries to 'insulate decision-making from demands by social actors and societal pressure' (Menz 2009, p.132; see also Saurugger 2007b). When the French state does activate the consultation procedure, these sessions serve as a way to collect information rather than as a way to include interest groups into the decision-making process (Wilson 1987). This long-time distrust also transpires in the French Constitution itself. Upon close examination, one finds only mention of trade unions in the preamble of the Constitution of 1946.<sup>83</sup> Groups, volunteer associations, or societies are absent from the Constitution of the Fifth Republic (see Kuhne and Gabriel 2012, p.58).

The representation of private interests is perceived negatively within French society, but connections between governmental actors and interest organisations nonetheless exist. This is particularly visible concerning representatives of large firms, who often know highly placed politicians and administrative elite from the time they spent together at an elite school, or 'Grandes Écoles'. Within this 'system of elite cooperation', contacts are predominantly informal, based on inter-personal long-term relationships. Being excluded from this scheme, labour unions, small and medium enterprises, as well as business associations are particularly ill placed to exert any influence whatsoever. On one side, the myriad of French confederation

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<sup>83</sup> 'Tout homme peut défendre ses droits et ses intérêts par l'action syndicale et adhérer au syndicat de son choix' (Preamble of the Constitution of 27 October 1946, Point 6).

lacks a common front. Adding to this the continuous decline of their membership rate, their scope for action is rather limited. On the other side, large firms act largely independently from their umbrella organisation, to which they feel very little obligation (Saurugger 2007b, pp.123-124).

#### *5.3.2.3.2 French interest groups in public policy-making and the dearth of gateways to Europe*

The leverage of organised interests in policy making is rather weak, in comparison to what may be observed in Germany or Luxembourg (as we will see in the next section). In a domestic environment where highly skilled immigration was absent from the public debate and did not mobilise neither business organisations nor trade unions, the nature of the domestic interest intermediation came as an additional layer of nationally-focused mobilisation with no connection with the European level.

Since the end of the Second World War, negotiations between business organisations and labour unions have predominantly focused on social policies, including the management of social security funds and unemployment insurance systems (Saurugger 2007a). More often than not, the consultation process is dominated by the French state, which decides whether or not to meet with social partners. In such a system, the ability for interest groups to influence policy-making depends largely on the attitude of the state towards them (ibid., pp. 1080-1081).<sup>84</sup> The more favourable the perception of the state vis-à-vis an interest group, the more likely this group's preferences will be supported by the state.

This being said, several positions and initiatives are worth mentioning. In a rare academic contribution on the role of French firms in immigration policy, Emma Broughton explains how, in the face of strikes led by undocumented workers in September 2006, employers took on a political role. Working hand-in-hand with strikers, and accompanied by the CGT, employers mobilised in favour of the regularisation of undocumented workers. Companies acting as intermediaries do so individually, and the number of persons involved on the side of employees and employers is limited. Nonetheless, as explained by the author, '[These initiatives] will have an important impact on the public debate because they will make it

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<sup>84</sup> Sabine Saurugger examines the relationship of non-state actors with the state within a broader analysis of the influence of European integration (Saurugger 2007a).

possible to put forward a different discourse on undocumented workers and their employers and, consequently, migration in general' (Broughton 2014, p.18).

Another example of groups' mobilisation concerns the 'Action plan' for migration policy, integration, the fight against discrimination, racism and xenophobia. Launched in 2003 on the initiative of the French Democratic Confederation of Labour (CFDT), it brought together CFDT, CFTC, CGT, UNSA, and FO.<sup>85</sup> The aim – as recalled by the Confederal Secretary in charge of immigration and liberties – was to adopt a common position on these topics and to make usage of every opportunity to do so.

This meant that '[t]he CFDT was anxious to have a common position with other labour organisations prior to the [ETUC] Congress in Prague [in May 2003]. We utilised the European level as an additional opportunity to be heard at the national level. At the time, the EU was a motor, a locomotive in immigration issues (which it is not anymore). [...] This French Action plan was sent everywhere. We also organised a press conference, a seminar<sup>86</sup> at which the ETUC was invited. High-profile people also took part' (Interview 28; own translation).

A further initiative, called 'Bridges not Walls' (*'Des ponts pas des murs'*) was initiated in the upcoming of the adoption of the 'European Pact on immigration and asylum' in Paris, under the French Presidency of the European Council (second half of 2008), and of the Second Euro-African inter-ministerial Conference on migrations and development (November 2008). Making use of these political gatherings to voice its position to decision makers on a question 'that affects labour unions', a 'civic summit on migrations' was organised on 17 and 18 October 2008 in Paris. In their letter to their 'comrades' in the run-up to this event, the French Democratic Confederation of Labour and the Unitary Union Federation insisted on the importance for French labour unions to mobilise on migration and development issues (CFDT internal document 2008).

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<sup>85</sup> 'Programme d'action des organisations syndicales françaises membres de la CES en matière de politique de migration, d'intégration, de lutte contre les discriminations, le racisme et la xénophobie' (internal document obtained from the CFDT 2004).

<sup>86</sup> Seminar entitled 'Pour l'égalité contre les discriminations ensemble avec la CES', 27-28 April 2004 (internal document obtained from the CFDT).

Beside these unilateral instances of actors' mobilisation on the topic of immigration, consultative bodies are arguably additional channels of influence. Here, it is worth underscoring that very few of these venues where immigration is discussed were found in the framework of this thesis. What is more, these bodies tend to evolve through time, some mutating into other venues, and others being simply disbanded. To give an example, with the transformation of the Social Action Fund for Algerian Muslim Workers in Metropolitan France and their Families (FAS) into the Fund for Action and Support for Integration and the Fight Against Discrimination (FASILD), immigration was removed from the agenda for discussion (Interview 28). Since then, the FASILD has been very active in the fight against discrimination.<sup>87</sup> Among consultative bodies where immigration issues are tackled, the Social Dialogue Committee on European and International Issues (commonly referred to as CDSEI) stands out. This informal venue, coordinated by the Minister for Social Affairs, was created in 1998. It depicts itself as a 'specialised dialogue body', which consists of trade union representatives, members of employers' organisations, as well as affected administrations.<sup>88</sup>

As mentioned above, the list of actors invited to join these meetings is established by the state. The contacted organisations are all acknowledged by the latter, therefore representing a 'legitimate' panel of French interest groups. Access is therefore not the primary concern of these organisations. Rather, evidence collected in the field indicates that difficulty partly emerges from the absence of regular consultations between governmental representatives and civil society (of which interest groups are part of). In sensitive areas characterised by vociferous discourses such as immigration policy, it is no exaggeration to say that groups struggle to leave their mark on the legislative process (Menz 2009, p.132). To quote a MEDEF representative:

'On immigration, exchanges with the French government come and go, it depends on the government. There is no close dialogue on business needs with the government. We have always regretted the lack of a close and regular

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<sup>87</sup> For a presentation of the FASILD, go to [http://www.vie-publique.fr/documents-vp/organisme\\_fas.shtml](http://www.vie-publique.fr/documents-vp/organisme_fas.shtml) (in French).

<sup>88</sup> For detailed information on the CDSEI, see <http://travail-emploi.gouv.fr/ministere/europe-et-international/presence-europeenne-et-internationale/article/cdsei-comite-du-dialogue-social-pour-les-questions-europeennes-et> (in French).



dialogue on labour needs with the different governments. Since the abolition of the Ministry for Immigration [Integration and National Identity] in 2010, we [the MEDEF] do not dialogue with the government on migration issues anymore' (Interview 23; own translation).

Emma Broughton highlights the negative impact of the strong politicisation of debates on immigration issues on the mobilisation of these particular actors. Among other things, the author notes that it may be 'hazardous' for companies openly to take a position in a debate where the image of the 'boss' is largely negative. As she writes: '[i]t is not surprising, in this context, that no firm has expressed itself publicly on the question of migration policy' (Broughton 2014, p.12). On a similar note, an FO representative reported the negative impact of increasing tensions on consultations. In his words: 'There was a blatant lack of dialogue under Sarkozy. No social dialogue, nothing of the sort' (Interview 36).

In addition to the low level of state-group exchanges on immigration issues, it is of interest to note the absence of social dialogue on the topic, understood as a common construction of policies. As specified by an interlocutor of the French Business Confederation, '[t]he MEDEF does not negotiate with trade unions. These bodies gather multiple stakeholders, but do not initiate a transversal dialogue' (Interview 23). In sum, the statist institutional design has singularly structured the field of immigration policy. In light of the above and in the absence of declarations found illustrating common positions of employer organisations and trade unions on migration-related issues, the French consultation scheme exhibits highly vertical patterns, consultations converging towards a common centre: the state.

## **5.4 Luxembourgish actors**

### **5.4.1 Discussion on the degree to which Luxembourgish interest groups made use of European venues**

It is no exaggeration to say that the mobilisation of Luxembourgish non-governmental actors at the EU level was minimal. Finding traces of this meagre activation of European channels of influence resembles looking for a needle in a haystack. That said, there is variation between the behaviour of employer organisations on one side, and trade unions on the other. The data presented indicates a certain activation of both the European Trade Union Confederation and direct routes to the European Commission. Yet, results suggest that these channels were rarely

(if at all) exploited, as lobbying on third-country highly skilled immigration was not problematic for most Luxembourgish interest groups. Given that the use of national channels to reach EU decision-making was not an option – due to a very low degree of activity on the subject at the domestic level – it does not appear below. Instead, channels utilised (or lightly touched upon) are brought to the fore.

#### *5.4.1.1 Work carried out within European peak organisations*

On the side of Luxembourgish employers, one witnesses little activity. On the whole, Luxembourgish stakeholders ‘went with the flow’, with very limited involvement (or not at all). Persons contacted at the Fedil did not recall the specifics regarding the EU Blue Card, but certainly confirmed that no active lobbying was carried out on the subject in Brussels (Interview 38). Lobbying within BusinessEurope could have been an option for the Fedil, although findings on Luxembourgish actors overall point to a very low EU-level mobilisation. For its part, the UEL is not a member of BusinessEurope, and as such, has to go through one of its members, the Fedil, to make its voice heard within the EU peak organisation.<sup>89</sup> However, this strategy was not adopted in the specific case of the EU Blue Card permit (Interview 46).

The General Confederation of Labour of Luxembourg took part in discussions on the Blue Card directive proposal within its European peak association, the ETUC. Minutes show that the OGBL was present at meetings of the working group on migration and inclusion where the topic was raised (among many others). Nonetheless, this channel was not utilised extensively, as the OGBL representative opposed the consensus-based approach adopted by the ETUC, which implied ‘to lose sight of workers’ interests and well-being’ (Interview 37). Unlike the DGB, the OGBL was represented in the ETUC but did not support an attitude it viewed as too mild vis-à-vis national governments and business stakeholders. The other Luxembourgish member of the ETUC, the Luxembourg Christian Trade Union Confederation (LCGB), participated in very few of these discussions. ‘Out of fifty or so meetings, the LCGB attended two or three’ (Interview 37). These figures speak for themselves.

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<sup>89</sup> The former Director of the UEL described this situation as ‘an anomaly of the system’. This ‘internal arrangement’ is due to the relatively late creation of the business organisation, in 2000 (Interview 46).

#### *5.4.1.2 Limited activation of direct routes to Brussels*

Besides being present at ETUC meetings, the OGBL also took part in discussions with the European Commission Committee on Free Movement of Workers of the then Directorate General Employment, Social Affairs and Equal Opportunities (today called 'DG Employment, Social Affairs and Inclusion'). In this configuration, the OGBL was part of the Luxembourgish delegation, also composed of representatives of the government and employers' associations. These latter two types of actors were certainly present but they remained largely silent (Interview 37).<sup>90</sup>

A clarification should be made at this point. As its name suggests, this consultative committee deals with the free movement of workers within the EU, not with third-country nationals entering the Union. The DG to which it belongs is responsible for such topics as social protection, health and safety at work, and youth employment. Immigration issues do not belong to its agenda; they are dealt with by the so-called DG Home, named DG Justice, Freedom and Security at the time of discussions on the EU Blue Card. Yet, the OGBL – as did the ETUC, which was also present at these encounters (Interview 10) and a number of other national trade union confederations – was of the opinion that immigration policy had to be discussed within DG EMPL and its different committees. To quote the Head of the Migrant Department of the OGBL:

'All these directives [on legal immigration], including the Blue Card, should have been handled by DG Employment. In this DG, several committees cover the dialogue between trade unions, employers, and governments. Take the Committee on Free Movement or the Committee on Employment and Social Affairs. The task of dealing with persons entering European territory is the responsibility of ministries of labour and social affairs, of labour inspectorates. Instead of being handled by labour ministers, it [the Blue Card Directive] fell in the hands of ministers for justice and home affairs' (Interview 37; own translation).

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<sup>90</sup> The absence of findings on the involvement of Luxembourgish employers within this Committee does not enable me to go beyond the general observation that the Europeanisation of these actors was minimal.

The Head of Unit within DG EMPL responsible for the committee's meetings with social partners put migration issues on the agenda. In the absence of competence to take position on this topic, this choice was rather symbolic. As recalled by our interviewee:

'We were heard, yes, but no discussion took place. These were information sessions. The topic was put on the agenda not to upset labour union organisations' (Interview 37; own translation).

As far as business organisations are concerned, no evidence was found on the activation of European institutions. The current Secretary General of the Fedil, as well as the former Director of the UEL, and the ABBL Senior Legal Advisor in charge of employers' affairs at the time of the Blue Card negotiations, confirmed the absence of contacts with the latter on the subject of the EU Blue Card (Interviews 38, 43, 46). As explained by my UEL interlocutor:

'We, as UEL, had no contacts with the European Commission and did not seek it either. This did not prevent us from carrying out active lobbying campaigns on other directives, such as the Services Directive<sup>91</sup>. But we did not do it on this particular dossier [of the EU Blue Card]' (Interview 46; own translation).

## 5.4.2 Assessing the reasons why the mobilisation of Luxembourgish actors in Brussels was low

### 5.4.2.1 *Group characteristics*

#### 5.4.2.1.1 *Financial resources*

Among the factors explaining why the involvement of Luxembourgish actors on the European political scene was so limited, financial resources are important to take into consideration. Financial means economic interest groups have at their disposal provide interesting research results given a clear correlation between the number of persons working on a particular subject and the lobbying strategies of both national labour unions and business organisations. Coming from one of the smallest members of the European Union, Luxembourgish stakeholders in general are particularly sensitive to fluctuations of financial resources. The staff size of its structures, including private organisations, is usually limited, especially in comparison to big

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<sup>91</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

countries such as France, and particularly Germany. Often in EU-level talks, the delegation of Luxembourg comprises one person, at most two. Interviewees – representatives of governmental as well as private organisations – repeatedly highlighted the resource variable, and the fact that they had to carry out work with limited staff (Interviews 37, 38, 42). In these circumstances, actors are encouraged to concentrate their efforts on topics they consider most problematic or salient at a given moment (a similar argument is provided in Panke 2010, p.5). The idea of the European Commission to set up a European entry and residence visa for highly skilled third-country nationals was not one of them. Therefore, mobilisation on the subject at the national level as the text was being discussed by EU institutions, not to mention lobbying activity in Brussels, was close to inexistent.

#### *5.4.2.1.2 Group type*

A birds' eye view reveals scarce mobilisation in EU-level discussions on the proposed Blue Card Directive by both business actors and trade unions. As seen above, the former were largely silent in European fora, whereas the latter were aware that not much could be awaited from the weak position of the ETUC on the topic. Moreover, both types of actors had their own perception as to how economic immigration should be handled. The Luxembourg Bankers' Association (ABBL), for instance, was in favour of a further opening of the national labour market and of simplifying administrative procedures in order to facilitate the hiring of personnel needed by its members (Interview 43). Trade unions, conversely, saw this *saucissonnage* (or salami-slicing approach) of EU immigration policy as running counter to workers' rights and favouring discrimination (Interview 37). These two contrasted outlooks on economic immigration policy did not, however, translate into different multi-level behaviour patterns. This invalidates the idea that business actors are more likely to turn to the EU than trade unions (H2). Either by choice or resignation, both group types exhibited low visibility in supranational fora.

#### *5.4.2.2 Issue area factor*

Combined with limited resources, the nature of the issue goes a long way into understanding the behaviour of Luxembourgish interest groups. A first reason given by interviewees comes from the fact that attracting highly skilled immigration from around the world is largely unproblematic in a country whose economy relies heavily on the input of foreign workforce.

As underlined by Serge Kollwelter, '[...] the demographic and labour market trends reveal a need for immigration. This is usually accepted as fact across all sectors, including high, low and semi-skilled workers' (Kollwelter 2005, p.4). In keeping with this situation, the Secretary General of the Fedil explained:

'The Fedil had no intention of carrying out lobbying activity on the Blue Card [at the European level]. We had no issue with the topic [...] I am not even sure that we issued a position' (Interview 38).

Unlike what has been observed in Germany, highly qualified immigration did not generate any debate at the national level. Already the introduction of the highly qualified worker residence permit in the bill on free movement of persons and immigrations adopted by the Law of 29 August 2008 had taken place without interest group participation. The Blue Card Directive was seen as 'a nice-to-have instrument', which would ultimately not change much on the ground (Interview 38).

A second reason brought up during interviews had to do with the bad timing of negotiations of the EU Blue Card Directive. According to some, the topic had already lost its salience when discussions on the European political scene occurred (Interviews 43 and 46). For one thing, the Law of 29 August 2008 on the free movement of persons and immigration had institutionalised the conditions applying to highly qualified third-country nationals already. Therefore, the Blue Card Directive was seen as a valuable extension of the already-existing scheme, which would not, however, fundamentally alter national legal dispositions (Chambre des Députés 2011, p.7). In addition, the interest of certain interest organisations, such as the ABBL, was linked to strong economic growth and the need for a high number of foreign talents. With the slow down of the economy in 2008, the need for highly skilled immigration declined (Interview 43). Would Luxembourgish interest organisations have been more prone to multi-level activities if discussions on the Blue Card Directive had taken place simultaneously to the revision of the national law on the free movement of persons and immigration? The answer is negative. In a 'pragmatic' way, Luxembourgish interests tend to rely on a direct phone call to a high-ranking governmental official when difficulties arise rather than taking a firm stance on a non-problematic subject, which is already well tackled at home (Interview 46).

### *5.4.2.3 Domestic institutional characteristics*

#### *5.4.2.3.1 The Luxembourgish interest intermediation legal framework*

From 1795 to 1815, the Luxembourg was under French rule, so French legislation was therefore applied. The 1791 Le Chapelier law, which prohibited any type of gathering – of both workers and employers – aiming at defending common interests was no exception. After the defeat of Napoleon in 1815, Luxembourg took its own legal path (Putz 2012, p.51). The 1879 Criminal Code, largely modelled on its Belgian counterpart, maintained criminal sentences for both employers and employees, at least on paper. In reality, criminal law deprived mostly employees of the possibility to set up associations, leaving business actors largely untouched. Freedom of association was proclaimed ‘in all fields’ (ibid., p.157).

When examining Luxembourgish interest groups, it is important to distinguish between the professional Chambers and the ‘voluntary interest organisations’ (Kenis and Traxler 2007, p.231). Professional chambers are public law institutions. Until the fusion of the Chamber of Private Sector Employees (Chambre des employés privés) and the Chamber of Labour (Chambre de Travail) in January 2009, there were six Chambers in Luxembourg: three business Chambers (i.e. Chamber of Commerce, Chamber of Trades, Chamber of Agriculture), three Chambers representing employees in particular sectors (i.e. Chamber of Labour, Chamber of Private Employees, Chamber of Civil Servants and Public Employees). By contrast, the creation of voluntary interest associations results from the desire of a group of persons to unite. Here, legislative dispositions apply similarly to both employer associations and worker unions. As stated in the Constitution of the Grand Duchy Freedom, ‘The Constitution guarantees the right of association, in compliance with the laws governing the exercise of this right, without being subject it to prior authorisation’ (Constitution du Grand Duché de Luxembourg 2016, Chap. II, Art. 26). Furthermore, freedom of association is guaranteed ‘contextually’ through dispositions on the right to work and the right to strike (ibid., Chap. II, Art. 11(6)).

#### *5.4.2.3.2 The role of Luxembourgish actors in labour migration policy making*

As seen above, the topic of the EU Blue Card and limited financial resources explain to a substantial degree the Europeanisation of Luxembourgish actors (or the absence thereof). Did the actors’ institutional embeddedness and their ability to gain access to decision makers affect

the strategies of interest organisations as well? In light of gathered data, this explanation bears little fruit.

First of all, seeking access in itself does not apply well to a small country like Luxembourg. Both governmental and non-governmental actors belong to small-sized networks, where much is done on the basis of personal acquaintances. To quote a member of the Permanent Representation of Luxembourg to the EU:

‘Luxembourg is a country of short paths, where the political level (up to the level of experts) is very interconnected. In Germany, the system is very structured, very organised, everything is put into writing. The approach of Luxembourg is more flexible’ (Interview 44; own translation).

It may happen that governmental officials do not take the position of interest groups into consideration but accessing them in the first place is rarely a problem. As such, this parameter rarely affects organised actors’ multi-level strategies.

As far as the domestic interest intermediation scheme is concerned, Luxembourgish non-governmental actors participate in the public policy-making via two main channels: the Chamber system and tripartite consultation. Professional chambers are responsible for safeguarding and defending the interests of their members. As explained by Patrick Kenis and Franz Traxler, ‘[t]hey have the statutory right to submit proposals for legislation and must be consulted by the public authorities on all issues affecting their members’ interests in broadly defined areas of economic and social policy’ (Kenis and Traxler 2007, p.233, see also Gouvernement du Grand-Duché de Luxembourg 2006b). In parallel, professional chambers are also public policy agents, which are particularly involved in vocational training. Chambers habitually issue their opinion on a subject once a Directive has been adopted at the EU level and is being transposed into national legislation. Therefore, the opinion issued by these chambers on the Blue Card Directive (e.g. Chambre de Commerce 2011; Chambre des Salariés 2011) lies outside the scope of this research.

The second mechanism through which interest groups can influence the policy process is tripartite consultation. Often viewed as symbolising the so-called ‘Luxembourgish social



model'<sup>92</sup>, this mechanism was implemented in the 1970s as a response to the roaring iron and steel crisis. In face of these difficult economic and social circumstances, the law of 24 December 1977 created the Tripartite Coordination Committee: a consultative body comprising interest organisations and the government. Other important Tripartite-consultation forums, where social partners can take part in the policy process, are the Economic and Social Council, the national Employment Commission, and the Standing Committee on Employment. Initially used as a tool of crisis management, this consensual-based mechanism between the government, employers and labour representatives was later applied to other economic and social situations (Kenis and Traxler 2007, p.231). Hence, at the root of the 'Luxembourgish social model' is the idea that social dialogue and the involvement of business and labour representatives in policy-making contributes to the country's economy and social well-being, or 'social peace' (see Thill and Thomas 2009, p.2). Yet, the Blue Card Directive proposal was not discussed in this forum, which rather deals with such things as salary indexation, levels of social allowances and the situation of the labour market (Interview 37).

## **5.5 Conclusion and discussion of findings**

What factors best explain the relative inclination of German, French, and Luxembourgish domestic interest groups to europeanise their lobbying activities in the course of the Blue Card decision-making process? To address this question, this chapter sought to test a series of hypotheses related to actors' characteristics, the issue at stake, and domestic embeddedness of interest groups.

This detailed analysis establishes highly contrasted patterns between the domestic actors of the three countries under investigation. The strong inclination of German actors towards multi-level lobbying contrasts with the low level of supranational activities of their French colleagues, not to mention the quasi-inexistent Europeanisation of Luxembourgish actors. However, the story does not end here. Data presented in this chapter reveals a more fine-grained picture, characterised by both inter-national and intra-national discrepancies (for German and French interest organisations in particular).

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<sup>92</sup> This expression is used in a number of governmental declarations (see <http://www.luxembourg.public.lu/en/le-grand-duche-se-presente/systeme-politique/concertation/index.html>), by actors from the labour world (e.g. OGBL 2010), as well as in various publications (e.g. Zahlen 2003, Thill and Thomas 2009).

A first set of explanatory factors tested in this chapter concerns group characteristics, comprising financial resources and group type.

Unlike what I expected, the testing of the resource factor does not exhibit a constant trend. More specifically, financial resources display no systematic motives in explaining the inclination of domestic groups to mobilise at the European level (or the absence thereof). Hence, the hypotheses according to which interest groups with more financial resources are more likely to display more engagement at the EU level (H1) should be nuanced.

Evidence points to a correlation between staff size and the Europeanisation of interest groups in the case of German and Luxembourgish actors. For large organisations such as the BDA, the ZDH, and the DGB, staff size was not an issue and big teams facilitated the deployment of activity at the supranational level. Conversely, the absence of Bitkom on the European front may be traced back to insufficient workforce to carry out multi-level lobbying. The Luxembourgish case further illustrates the importance of financial resources in explaining Europeanisation dynamics. The recurrent problem of limited staff size affected both employers' organisations and labour unions. The explanatory value of financial resources is more ambivalent in the French case. Contrary to my expectations, findings demonstrate rather uneven effects of team size on actors' inclination towards multi-level lobbying. As for labour unions, results point to the irrelevancy of resource-related factors altogether. By contrast, staff size provides interesting insight on the behaviour of French business organisations (i.e. the MEDEF and the CGPME). Moreover, findings hint at the secondary nature of resources in comparison to other presumably more important variables, particularly the salience of the issue. Although staff size is not the key driver explaining the deployment of activity at the EU level (or the absence thereof), it can certainly make the balance tip on one side or the other. This observation is valid for German and Luxembourgish employers' organisations and trade unions as well.

The second factor related to group characteristics – group type – appears of limited use in explaining the Europeanisation of actors. Within the context of this study, I found no evidence supporting Hypothesis 2 according to which whether an actor represents businesses or trade unions has a bearing on its ability to engage in multi-level lobbying. Neither German, French, nor Luxembourgish employers' organisations turned more readily to Europe than labour

unions. In the German case, data collected demonstrates a high degree of involvement from the part of both the BDA and the DGB in the Blue Card decision-making process. By contrast, supranational mobilisation of both French employers' organisations and labour unions was low. Their Luxembourgish colleagues displayed minimal (if any) presence in supranational venues.

A second set of variables I utilised deals with the nature of the policy itself. At first sight, one may be tempted to proclaim the substantial explanatory weight of these factors. Yet, a closer inspection reveals contrasted patterns depending on which aspect of a policy issue is examined (complexity or salience).

This chapter demonstrates that complexity – operationalised by looking at the degree to which domestic interest groups take part in consultations organised by European institutions (see chapter 2 for the full definition of complexity and chapter 3 for a more detailed explanation of how I operationalised this variable) – does not apply equally well to the three countries under investigation. Hypothesis 3 is only partly confirmed since the data I collected on the Blue Card policy-making process displays heterogeneous results. The German case provides for the most empirically-rich example. I found a clear connection between the complexity of highly skilled immigration and the high involvement of German actors in the making of the Blue Card Directive, especially in the European Parliament. The situation was ideal for German interest groups. On the one hand, the EP was remarkably open to outside ideas and argumentations. On the other hand, German actors were most willing to provide information and used this channel to express their concerns and suggestions. Results on Luxembourgish interest groups are rather inconclusive. Although Luxembourgish actors were no key information providers to the EP and did not make an active use of this EU institution to convey their positions (to say the least), I found no correlation between this observation and their quasi absence from EU-level discussions on the EU Blue Card. Findings are equally scarce in the French case to either confirm or reject the hypothesis. This said, the absence of any visible interaction between French interests and members of the European Parliament is puzzling. In sum, the notion of 'complexity' is highly relevant to explain the Europeanisation of German actors but proves inconclusive to elucidate the behaviour of Luxembourgish and French economic groups.

By contrast, the salience of an issue is particularly informative in explaining the Europeanisation of all domestic interest groups considered in this study. The analysis confirms Hypothesis 4, which states that the higher the salience of an issue for an interest group, the more likely this group is to engage in multi-level lobbying. In the German case, the interest of the BDA and the DGB for the Blue Card Directive proposal heavily affected their decision to turn to Europe. The parallel evolution of salience and Europeanisation dynamics also applies to the French case, albeit in the other direction. Here, low interest of both employers and labour unions for the topic of highly skilled immigration policy transpires in their low EU-level mobilisation. The same applies to Luxembourgish actors, although, in this case, low salience derived from a non-problematic conception of labour immigration rather than from little interest in the issue.

Turning to the effects of domestic structural interest intermediation schemes on the Europeanisation of actors, my empirical results largely support the assumption that the nature of the national system (whether corporatist or statist) partly determines (or at least facilitates) actors' activation of the European political spheres of influence (H5). This tendency, however, is more blatant for German and French stakeholders. Evidence highlights the positive effect of the German corporatist model on interest groups' supranational mobilisation. In fact, German actors who took part in European discussions on the EU Blue Card Directive proposal were well integrated into the national interest intermediation scheme. On the contrary, the French statist interest intermediation configuration effectively rendered actors' mobilisation more difficult and unlikely. These findings provide strong evidence in favour of the 'positive persistence hypothesis' since nationally well-established interest groups are visibly more likely to incorporate the EU into their strategy (see chapter 2 for a presentation of the 'positive persistence hypothesis' and the 'compensation hypothesis'). However, the impact of domestic embeddedness on the Europeanisation of Luxembourgish actors is not conclusive. On the one hand, the national legal framework provides for the participation of civil society interests in policy-making, at least on paper. On the other hand, information I collected stresses the absence of dialogue and the non-inclusion of interest groups in discussions on immigration (and integration) policy.

Findings of the multi-variate analysis carried out in this chapter are summarised in Table 2 below.

Table 2 Summary of findings

Hypotheses	Germany	France	Luxembourg
<b>H1:</b> <i>Interest groups with more financial resources are more likely to display more engagement at the EU level.</i>	E	nr: labour unions E: employers' organisations	E
<b>H2:</b> <i>Business actors are more likely to turn to the EU than trade unions.</i>	ic	ic	ic
<b>H3:</b> <i>Interest groups should be more prone to europeanise their lobbying activities in cases of complex policy issues.</i>	E	ic	ic
<b>H4:</b> <i>The higher the salience of an issue for an interest group, the more likely it is to engage in multi-level lobbying.</i>	E	E	E
<b>H5:</b> <i>Interest groups integrated in a corporatist interest intermediation system are more likely to make use of EU lobbying routes than groups integrated in a statist domestic environment.</i>	E	E	ic

*E: evidence found*

*nr: variable plays no role*

*ic: inconclusive, data collected (or the lack of findings) does not provide a clear answer*

The columns of the table above provide a country-based summary of the results presented in this chapter. The point here is not to repeat myself but to highlight several aspects along the national dimension.

In the German case, both business and labour organisations were particularly active at the supranational on the Blue Card dossier. Moreover, there is no major discrepancy between levels of mobilisation between these two groups of actors. Financial resources, the complexity and salience of the issue, as well as the characteristics of the national corporatist interest intermediation system all play a part in explaining the Europeanisation of German economic stakeholders. As such, the German case displays the most convincing results.

Similarly to the German example, the group type variable proved difficult to operationalise on its own in the French example. An important research output to underline concerns the resource hypothesis (H1), as findings vary along a group type basis. Whereas financial resources are important to explain the behaviour of employers' organisations vis-à-vis Europe, it is not the case for labour unions. This discrepancy may be explained by the fact that French labour unions rarely mobilise on labour-market related topics (such as the entry and residence of highly skilled third-country nationals). Actors do not feel constrained by limited financial resources on a subject they consider of minor importance. Apart from resources, salience exhibits interesting results as well. The French case may be viewed as a reversed image of the German example. Hence, whereas the latter confirms the assumption that the higher the salience of an issue in the eyes of an actor, the more likely it is to engage in multi-level lobbying, the low mobilisation of French actors at the supranational level derives partly from low salience.

As far as Luxembourg is concerned, the most blatant explanatory factors of the quasi absence of EU-level activism on the EU Blue Card are financial resources and salience. In light of all the material gathered on financial means, and particularly staff size, Luxembourgish interlocutors were the ones who stressed this explanatory factor most. The fact that the Grand Duchy is a small country with limited means is a recurrent theme. Domestic interest groups, but governmental actors as well, have to deal with restricted staff size, when other actors, such as German employers' organisations, can afford to mobilise a high number of persons on a single issue. Moreover, the low salience of the highly skilled immigration did not encourage economic actors to turn to Europe.

## **6 Europeanisation understood as the causal effects of Europe on the cognitive frames of domestic interest groups**

### **6.1 Introduction**

While chapter 5 explored the activation of the European supranational level by German, French, and Luxembourgish economic interest groups, chapter 6 focuses on the cognitive dimension of actors' Europeanisation. The purpose of this part of my thesis is to investigate the causal effects of Europe on changes of perception of domestic interest groups in the field of legal immigration, especially as regards highly skilled immigration policy. As such, the analysis seeks to assess whether European engagement in this area had a discernible impact on the positions and perceptions of employers' organisations and labour unions.

This research endeavour relates closely to a key quest in Europeanisation studies, namely the attempt at establishing the causal weight of the European Union on changes observed at the national level. In order to do so, this study bases itself on counterfactual scenarios and the subsequent presentation of non-EU related alternative explanatory variables. As such, it questions whether changes in interests and preferences of actors regarding immigration policy would have revealed similar characteristics in the absence of European involvement in this area. Counterfactual reasoning is particularly useful in this case, given that it enables us to avoid the temptation found across a range of Europeanisation works of overestimating the explanatory powers of the European Union (see chapter 3 for a detailed account of the counterfactual method). The suggestion of additional proposals provides useful alternatives in order to explain cognitive changes observed at the national level.

In exploring the cognitive side of actors' Europeanisation, this chapter is structured along a country-based logic (similarly to the previous chapter). For each country under study (i.e. Germany, France, and Luxembourg), the chapter first provides background information on national conceptions of labour immigration policy; highlighting how highly skilled immigration fits within this wider framework. The second step provides a detailed account of how domestic interest groups reacted to these evolutions in order to underline changes of actors' perception within the wider national context (when applicable). Finally, the ultimate

part assesses the significance of the European factor in explaining these changes using both counterfactual reasoning and additional non-EU explanatory variables.

## 6.2 German case

### 6.2.1 Towards the acknowledgement of immigration

Notwithstanding its substantial experience in movements across frontiers, Germany has struggled to see itself as an immigration country. The country has been a major destination for both immigrants and refugees in the second half of the twentieth century but the perception according to which Germany was not a country of immigration impregnated the perception of both political and economic elites until the turn of the 21<sup>st</sup> century. This section explores the ways in which this change of perspective on immigration has taken place through time. The point here is not to provide a historical account of German legislative immigration measures but to trace the origins of the rejection of the immigration phenomenon and highlight its evolutions.

#### 6.2.1.1 *'Germany is not an immigration country': a long predominant leitmotiv*

The idea according to which Germany is not a country of immigration (*Deutschland ist kein Einwanderungsland*) gained prominence in the 1970s. Starting with the 1973 oil crisis and the official halt of the German foreign recruitment scheme (the so-called *Anwerbestopp*), policymakers' discourse on immigration focused on the need to curb legal labour migration to Germany (Laubenthal 2008, p.2). In this context, the SPD-FDP government of the time encouraged foreign workers to return to their home country. Family reunification became the only way to immigrate legally to Germany (Borkert and Bosswick 2007, p.4). At the end of the 1970s, asylum became a major channel of immigration. By the 1980s, it was a central aspect in the political discourse on migration in Germany (for a detailed account, see Bosswick 1997).

With this new stance, German migration policy clearly turned its back on 'guest worker'<sup>93</sup> labour recruitment regime launched in the post-World War II era. Since the end of the war,

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<sup>93</sup> Euphemistically called 'guest workers' (Gastarbeiter in German), these foreign workers predominantly came from countries with which West Germany signed bilateral agreements in the 1950s and 1960s. For the most part, 'guest workers' came to work in industrial sectors, such as construction, mining, metal industry, that required little qualification. East Germany also welcomed foreign workers, during the 1970s and 1980s, however on a more minor scale.



‘Germany [...] had become one of the most significant destinations for immigration in the developed world’ (Green 2013, p.334). In the 1950s and 1960s, the FRG had signed a series of bilateral recruitment agreements with European and non-European countries. To name a few, Italy (1955), Spain and Greece (1960) and Turkey (1961), Morocco (1963), Yugoslavia (1968). Among the reasons behind this active immigration policy was the need for additional workforce at a time of German economic boom (or *Wirtschaftswunder*).<sup>94</sup> Although the return of German soldiers and prisoners, the arrival of refugees and ethnic Germans from Central and Eastern Europe<sup>95</sup>, together with the influx of people fleeing the German Democratic Republic expanded the national labour pool, labour shortages remained a concern, at least in certain sectors like construction and industry. This need became even more acute with the creation of the Federated Armed Forces in 1955 and the replenishment of German armed forces, which reduced the young male labour pool. A few years later, the building of the Berlin Wall (in 1961) put additional pressure on the need to promote economic immigration, as the flow of East Germans pouring into the FRG literally dropped over night (Zimmermann *et al.* 2007, p.9).

The leitmotiv according to which Germany was ‘not a country of immigration’ was omnipresent in the political discourse of the time. Both the CDU/CSU and the SPD – the two dominant political parties in the country – rejected the idea that migrant workers (from outside the European Union) were needed in order to increase the active labour population. As noted by Simon Green ‘[e]ven when large-scale labour immigration did take place, especially during the 1960s, it was never considered anything more than a temporary, stop-gap solution to labour shortages – as indeed the term ‘guest workers’ implied’ (Green 2013, p.334). In addition, this conception of Germany should not be viewed as a reflection of reality (in 1990, about 4.5 million foreigners, mostly from Turkey, Italy, and former Yugoslavia, lived in Germany). It is rather a normative aim that is closely linked to the essentially ethnic nature of German citizenship. In contrast to countries of immigration such as the United States or Canada, immigrants were kept out of the German nation-state building (Joppke 1999, p.62).

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<sup>94</sup> Authors such as Johannes-Dieter Steinert also mention political pressure exerted by sending countries that wished to take part in the ‘guestworker’ scheme or supported an increase of the number of migrants (Steinert 1995).

<sup>95</sup> Following the Second World War, over 4 million ethnic Germans established themselves in West Germany. Most came from Poland, Romania and the countries that were part of the former Soviet Union (Green 2013, p.333).

### 6.2.1.2 *The rise of a new national immigration frame*

German immigration policy underwent major changes from the 1990s onwards, along with a gradual shift of perception on the subject from the part of both political and economic actors. The emergence of a new perspective marked the end of the long-prevailing consensus of Germany 'not being a country of immigration'. Whereas labour migration had stirred little interest in the past, the turn of the century was marked by a series of legal measures that sought to promote and encourage the influx of third-country nationals to Germany. Change was also visible in the language itself. The term 'Einwanderung', which refers to 'formally recruited immigration', gave way to the word 'Zuwanderung', alluding to 'any form of immigration' (Green 2013, p.344). The two major political families – the Christian Democrats and Social Democrats – had shared a rather restrictive approach regarding immigration in the past, but it was no longer the case by the late 1980s.<sup>96</sup> Influenced by civil society actors including trade unions, NGOs and churches, the left wing of the political spectrum modified its outlook on the subject. As underlined by Georg Menz, '[d]uring its long spell in opposition, the Left [including the SPD] went through a significant metamorphosis, adopting a much more pragmatic and centrist stance [...]' (Menz 2009, p.168).

The arrival in office of the Red-Green coalition government of Gerhard Schröder in 1998 breathed new life into the immigration debate, perhaps most notably as regards highly skilled immigration. The Greens had held progressive views on immigration policy for years. The SPD had acknowledged the necessity to modernise German immigration legislation much later, in the 1990s (Green 2013, p.342). On 23 February 2000, Chancellor Schröder gave a landmark speech at the computer fair CeBIT in Hannover. Described by some authors as 'a watershed in Germany's immigration policy' (Ette 2003, p.35), this initiative launched a debate on labour shortages in the information and communications technology sector and the need to recruit foreign IT specialists. Among other venues, the subject was discussed by the government, employer organisations and trade unions within the Alliance for Labour, Education and Economic Competitiveness (the so-called *Bündnis für Arbeit, Ausbildung und Wettbewerbsfähigkeit*) (Ette 2003, p.36). These developments resulted in the launch of the so-

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<sup>96</sup> The end of the consensus on immigration did not presuppose the absence of ideological divisions within the left- and right-political wings. On the contrary, divisions within each side were frequent (see Menz 2009, p.168).

called 'Green Card' (in August 2000): a five-year permit for highly skilled immigrants in the IT sector. As pinpointed by several authors, the repercussions of this temporary labour recruitment programme on the domestic labour market were relatively limited (see e.g. Laubenthal 2012, p.17; Menz 2009, p.169). The Green Card scheme had initially targeted 20,000 highly skilled foreign workers, but only 18,000 permits were delivered. Despite its modest success, the Green Card '[...] had a strong symbolic function and served as a rhetorical "door opener" for a debate on needs of foreign labour in Germany' (Laubenthal 2012, p.17).

The symbolic weight of the Green Card scheme was substantial, indeed. Discussions it triggered on highly skilled immigration provoked a cardinal reorientation of perception on immigration in general. Since the 1970s and the recruitment stop, migration had been perceived negatively as a strain for the welfare system. Migrants were predominantly seen as poor people seeking to take advantage of the generous German social system. This cognitive frame underwent a radical transformation with the presentation of immigration as a solution to German economic and demographic challenges. As explained by Andreas Ette, 'The simple label Green Card combined the frame of the "new economy" with the necessity of allowing a few thousand people to come to Germany. A central claim of this frame was that Germany's position of supremacy depends on foreign experts without whom the German ICT could not remain competitive in a global economy' (Ette 2003, p.36). Hence, the Green Card scheme set off a 'cultural change' among legislators, who came to realise that immigration was inevitable and that legislative pro-active measures were therefore necessary in this area (Cyrus and Vogel 2005, p.3; see also Borkert and Bosswick 2007, p.15).

A manifestation of this paradigm shift took the form of discussions within the 'Independent Commission on Immigration', which was appointed in 2000 by the Federal Minister of the time, Otto Schily. Headed by CDU member and former President of the Bundestag, Rita Süssmuth, the Commission – comprising legal experts, labour union and employers' representatives, religious representatives, academics, politicians of various parties – was charged with formulating recommendations on the subject of immigration and integration. Arguments such as 'Germany needs immigrants' (*Deutschland braucht Zuwanderinnen und Zuwanderer*) (Unabhängige Kommission 'Zuwanderung' 2001, p.11) and 'Germany – an immigration country' (*Deutschland – ein Einwanderungsland*) (ibid., p.12) set the tone in the

preliminary pages of the document. Among other things, the report suggested the simplification of legislation, the fostering of labour immigration and integration, as well as the prevention of unwanted immigration (ibid.). Although the effects of these recommendations on the subsequent legislative process appear limited<sup>97</sup>, their symbolic influence on the perception of both decision makers and non-governmental actors proved to be considerable. More precisely, the work of the Commission initiated a shift from whether Germany was a country of immigration to the widely shared consensus that immigration was inevitable to fill labour shortages, particularly in an ageing society such as Germany. Emphasis was put on managing immigration in order to let the so-called 'wanted' people in, while preventing 'unwanted' persons from entering German territory (Cyrus and Vogel 2005, p.3). The advent of this new paradigm eventually culminated in the passing of the first comprehensive immigration law ('Law for Managing and Containing Immigration and for the Regulation of the Residence and Integration of EU-Citizens and Foreigners') in July 2004 and its entry into force January 2005. Although a certain ambivalence vis-à-vis immigration remained within German society (Green 2013, p.339), policy makers recognised the inevitability of immigration and the need for pro-active measures (Zimmermann *et al.* 2007, p.30). 'For the first time in German immigration history, labour migration is viewed as an independent form of immigration with the prospect of permanent residence' (ibid., p.36).<sup>98</sup> As such, the symbolic and cognitive weight of this legal initiative on domestic actors is nothing short of remarkable.

A series of laws were adopted between 2005 and 2009 (for a review of these laws, see e.g. Zimmermann *et al.* 2007; Laubenthal 2008). It is worth underlining that despite the return to power of the Christian Democrats in a Grand Coalition with the Social Democrats (end of 2005), these later legal development followed in the footsteps of the new immigration paradigm towards more openness vis-à-vis foreign labour. As illustration, the 2009 'Law for the management of labour migration' (*Arbeitsmigrationssteuerungsgesetz*) reduced the required

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<sup>97</sup> Released in July 2001, the Commission report was intended to provide guidelines within discussions on an immigration bill. However, the September terrorist attacks in the United States brought security concerns to the forefront, granting a leeway to CDU sceptics in favour of a more restrictive immigration scheme (Cyrus and Vogel 2005, p.4). This may, in part, explain why the immigration bill of Minister Schily adopted a more conservative line than what had been suggested by the expert commission, especially as regards labour immigration.

<sup>98</sup> In the context of this research, it is important to note that the 2005 immigration law provides specific conditions for foreign highly skilled workers including teachers, scientists, and experienced managers (§19 *Zuwanderungsgesetz*).

minimum salary for highly qualified workers and lowered the investment threshold for self-employed foreign workers.

### 6.2.2 The positioning of interest groups in the context of national debate on labour immigration

How have economic interest groups reacted to the profound cognitive change on immigration experienced by the social and political elites of Germany society? This question is of particular interest in the case of Germany, given its corporatist political system that includes social partners in policy-making. Evidence points to important cognitive evolutions for both employers' associations and trade unions on the topic of labour immigration and to their active role in shaping migration policy itself. Georg Menz claims that '[...] the formation of labor migration policy, a core component of the new paradigm of managed migration, is shaped by the actions and positions of non-state actors, principally labor market interest associations such as trade unions and employer associations' (Menz 2007, p.2). This said, the timing and characteristics of the position of these two types of actors displayed contrasted patterns over the years.

The consensus on the need for the hiring of foreign workers surfaced relatively late on the side of employers. Immigration policy was largely absent from their considerations from the recruitment stop of the 1970s to the mid-1990s. At least three explanations may be given for this situation. First, employers had felt isolated in their advocacy of the guest worker programme following the halt of the foreign recruitment scheme and did not wish to revive a divisive topic among Christian Democrats. Second, the promotion of foreign recruitment at a time of rising unemployment was difficult. Third, mobilisation on the topic was of minor concern, given that labour shortages were much less of an issue than they would later come to be. In an economy where the tertiary sector represented only 55 percent of the domestic labour force in the 1980s, most of the labour force could be found locally (Menz 2009, pp. 175-176). Its primary sectoral member, the Federation of German Employers' Associations in the Metal and Electrical Engineering Industries (also known as 'Gesamtmetall'), was not concerned with this issue at the time (*ibid.*, p.176). The picture changed significantly in the mid-1990s and the revival of employer association lobbying activity in this area. From 2001 onwards, employer associations and business actors dedicated much of their time and efforts to the advocacy of

immigration targeted at the 'best and brightest'. According to the BDA, '[a] red carpet should be rolled out for highly-qualified workers – at the end of the day, they create new jobs' (Der Spiegel 2001; own translation). This change of conception took place, however, at a difference pace for the BDA and the BDI.

Generally timid, the attitude of the German Confederation of Employers' Associations (BDA) on labour immigration remained hesitant on labour immigration for some time. In the early 1980s, the BDA favoured the end of the guest worker recruitment scheme alongside tight border controls and a focus on the national educational system (BDA 1983). A change of attitude is perceptible a few years later, in the early 1990s. Whereas the confederation did not support the adoption of an immigration law establishing quotas for highly skilled immigrants, it no longer opposed the re-introduction of a guest worker programme, albeit on a smaller scale (Marshall 2000, p.155). All in all, however, enthusiasm from the part of the German Confederation was low. It therefore comes as no surprise that the confederation was no driving force in the rise of a novel conception of immigration. At least at the early stage of the paradigm shift, the association was a follower rather than an instigator of change.

The course of events changed at the turn of the century, with gaps in labour supply becoming more visible. By 2002, while Interior Minister Schily's draft immigration bill was being vehemently discussed in the Parliament (i.e. Bundesrat<sup>99</sup>), the BDA had embraced the change of frame. As illustration of this new stance, the BDA underscored the need to 'compete for the best brains' and 'international mobile high profiles' in order to alleviate 'labour market shortages' in the interest of the competitiveness of the German economy (BDA 2002). Its dominant member, Gesamtmetall, displayed a much more pro-immigration stance, contrary to what could be observed in the past (see above). In 2000, the Federation of German Employers' Associations in the Metal and Electrical Engineering Industries instigated a campaign, named 'New Social Market Economy' (*Neue Soziale Marktwirtschaft*). The objective, as explained by the Director of Gesamtmetall of the time, was to instil the need to adopt economic 'neoliberal' reforms of the economy in the mind of public opinion (Speth 2004, p.7).

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<sup>99</sup> While the coalition held majority in the Bundestag, the Bundesrat was dominated by the Christian Democrats (CDU/CSU). Consequently, the Red-Green coalition in power needed the approval of the opposition to adopt legislation such as in the field of immigration. Paralysis occurred when, in 2002, the CDU/CSU rejected Minister Schily's first immigration bill.

This included the promotion of the immigration of foreign talents, depicted as highly beneficial for German growth and competitiveness (see Stiftung Marktwirtschaft 2002). From this period onwards, lobbying campaigns of the BDA intensified. Taking part in the work of the 'Independent Commission on Immigration' helped the employer association refine its position on the subject at hand (Interview 13) and arguably provided a useful additional channel to lobby the Ministry of the Interior, in charge of the dossier. The BDA advocated more 'managed migration' in line with employers' needs and less latitude for regional administrations in a globalised economy based on competition for the best and brightest (BDA 2002).

In contrast to the BDA, the federation representing large industries (BDI) was an early promoter of a new cognitive frame as regards immigration. One can even go as far as stating that '[t]he change in the attitude among the BDA originated within the BDI [...]' (Menz 2007, p.18). Its president at the time (1995-2000), Hans-Olaf Henkel, was a strong believer in the need to move beyond the traditional view of immigration and to adopt a labour structure open to foreign workers. The president took an active part in discussions of the Süßmuth Commission as a promoter of the 'neoliberal' economic model. Along this line of reasoning, he repeatedly warned against severe upcoming labour shortages in the Germany economy, presenting immigration as a way to tackle labour market difficulties (e.g. Schmid 2000). Hans-Olaf Henkel further defended the adoption of a pro-active recruitment scheme vis-à-vis immigrants and viewed the use of labour immigration quotas favourably. When discussions on the adoption of a new immigration policy began in 2001, the new President of the BDI, Michael Rogowski advocated an annual inflow of 300,000 to 400,000 qualified third-country nationals into the German labour market (Reißlandt 2002, p.8).

As for labour unions, no drastic change of perception is perceptible in the 1990s and years 2000. This can be put down to the fact that the shift towards a more progressive stance occurred in an earlier period, in the 1980s. At that time, unions' perspective shifted from a clear-cut opposition to the recruitment of foreign workers for fear of wage dumping, to the promotion of equal treatments for all workers and integration measures. Whereas the DGB had considered labour immigration as a temporary phenomenon in the past, it opposed proposals to promote the return of migrants in the early 1980s (Kühne 2000). Moreover, the German

Confederation was sceptical about the short-term Green Card permit (5 years) for IT experts.<sup>100</sup> Along this line of reasoning, the DGB issued a position paper in 2004, together with the BDA, where it stresses its preference for long-term labour immigration policies that address the rights of aliens, including nondiscrimination and integration aspects (DGB and BDA 2004).

In the 2000s, at a time when lobbying campaigns of employers associations on the importance to attract the best and brightest from around the world were gaining pace, the DGB was mostly concerned with issues related to rights of foreign workers and their integration into German society. The confederation claimed that labour immigration could not take place at the expense of local hiring and investment in the education of German people. This said, the DGB welcomed the new perspective on immigration launched in the early 2000s. A potential reason for this derives from its multi-dimensional conception of migration policy. For the DGB, labour immigration was deeply intertwined with asylum issues and questions related to integration. 'We believe in the necessity of labour immigration, but are also concerned with the protection of asylum seekers and the introduction of an effective integration policy (Interview 9; own translation). Against this background, the DGB described its role in the management in labour immigration as one of '[...] social protection both towards national (German and foreign) workers and towards new immigrants; unequal treatment and exploitation must be prevented' (*Grundsätze des Deutschen Gewerkschaftsbundes für die Regelung der Einwanderung*, 13.03.2001, cited in Laubenthal 2008).

## 6.2.3 To what extent can the change of perception of interest groups be attributed to Europe?

### 6.2.3.1 A case of cognitive Europeanisation?

The above section has examined the rise of a new immigration paradigm in Germany and reactions of major economic non-governmental actor to this change. Findings underscored something of a 'tectonic shift' (Green 2013, p.344) since the early 1990s both among policymakers and interest groups. Yet, understanding the Europeanisation of domestic interest groups requires to establish some kind of connection between these new cognitive

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<sup>100</sup> As specified by Barbara Laubenthal, '[t]he agreement of the trade unions on the Green Card was made conditional on the commitment of employers to recruit more trainees and to invest in the qualification of young and senior workers' (Laubenthal 2008, p.6).



frames adopted by these actors and policy developments at the level of the European Union. More specifically, it is about establishing the causal weight of the EU on this change of perception regarding labour immigration. The aim here is to take up the challenge of assessing the transformative effects of the Blue Card decision-making process on actors' cognitive frames by controlling a series of potentially key variables, including EU integration but not exclusively.

The counterfactual logic posits that '[if] European pressures, incentives or models have resulted in a particular outcome, [this] implies that if the EU variable had been absent, the particular outcome would not have occurred' (Haverland 2005, p.4). On this basis, the central question addressed here – Would German interest groups' change of perception have displayed the same characteristics in the absence of the supranational Blue Card decision-making process? – should receive a negative answer. In order to test this hypothesis, the Blue Card decision-making process is the independent variable, while cognitive changes from the part of German actors represent the dependent variable.

Let us create a scenario where the European Union is not involved in labour immigration policy. In this context, I suppose the absence of supranational policy-making activity in this domain. This means that tensions between the European Commission, wanting to progress towards European integration, and Member States, reluctant to give away control over who enters their domestic labour market are inexistent. With this in mind, German employer organisations do not have to worry about losing influence at the national level because of European Commission initiatives in this domain (see chapter 4). Instead, they can dedicate much of their energy to discussions organised by the Ministry of the Interior on the reshaping of domestic immigration policy, initiated by the Red-Green coalition in power. Their participation in the 2001 commission helped them to clarify their position on the topic of labour immigration so both the BDA and the BDI have a clear idea of what they wish to achieve. In their view, the inflow of foreign talents is both desirable and inevitable for the good of the German economy. They are particularly anxious to attract highly skilled workers, repeatedly requesting the establishment of migration quotas. At the risk of repeating what has been written above on the positioning of the DGB, the perspective adopted by the confederation of trade unions in the absence of Europe exhibits the same traits as the ones

exposed earlier. In sum, the scenarios for both the employer associations under study and the German Trade Union Confederation very much resemble what happened in reality. In other words, the absence of the European Union does not seem to bear much influence on the positioning of actors.

However, the limits of the exercise should not prevent us from exploring why it is so. Timing provides interesting insight on this matter. Looking back at the history of the Blue Card Directive policy process, European activism in the area of highly skilled immigration took root on the failure of a comprehensive approach on labour immigration. As reviewed in chapter 4, the failure of the 2001 Directive Proposal triggered a redesign of the Commission's ambitions in this area based on the categorisation of migrants (the Blue Card Directive embodying this change of perspective). During the preparation of the Blue Card Policy Proposal in 2005-2007, the change of perception on the part of German economic actors had already taken place. By that time, both employers and representatives of the DGB were already well integrated into a domestic reflection on immigration policy and generally did not include a European scheme in their analysis (see chapter 5). They had taken part in extensive consultations on immigration policy, as well as asylum and integration measures (e.g. see the themes tackled by the Independent Commission on Immigration, Unabhängige Kommission 'Zuwanderung' 2001). They were both convinced that Germany needed foreign labour inputs, each benefitting from a solid cognitive base on which to act well before the beginning of the Blue Card decision-making process. As regards highly skilled immigration specifically, German employer associations had actively promoted more openness of the labour market vis-à-vis third-country nationals, especially highly qualified workers, since the turn of the century. With the 2005 new immigration law, highly skilled immigration had made its official entrance into German immigration policy. A separate section of the 'Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory' provided for the settlement permit of highly qualified foreigners (Residence Act 2008, Section 19).

Hence, one can argue that the EU Blue Card permit arrived too late in order to influence actors' perception. Had it been implemented earlier, the picture could have looked very different. A number of big groups, such as the SMS group, expressed their scepticism regarding the effectiveness of the European permit due to its late arrival (Schmiedendorf 2007). The national

debate on highly skilled immigration was still going on in Germany when discussions began on the Blue Card Directive Proposal in Brussels (in 2007), but the effects of the European initiative on the conception of German non-state actors is empirically difficult to detect. In these circumstances, one is tempted to argue that national cognitive evolutions commonly took place largely in isolation from discussions taking place at the EU level. In any case, interviewed BDA representatives have denied any effects of the EU on the cognitive frame of the organisations (Interviews 13 and 14). In keeping with this finding, a DGB interlocutor recalled no influence of European immigration initiatives on the positioning of the Confederation (Interview 9).

In this context, the Blue Card Directive could only be of limited value for influential domestic non-state actors. It is no exaggeration to say that their enthusiasm was minimal. An additional explanation for the absence of a clear link between actors' shift of conception of labour immigration and EU policy-making developments may be found in the position of certain German economic actors vis-à-vis the involvement of the EU in this area. As discussed in chapter 4, German economic actors, especially the BDA, were worried about repercussions of the Blue Card decision-making process on their ability to influence the implementation of a new immigration scheme at home. In this context, one may contend that, had any influence of Europe on German actors' outlook on immigration policy been possible, the opposing attitude of major German business representatives would have complicated the matter greatly.

Findings regarding the Europeanisation of actors are inconclusive, but do other factors hold more explanatory weight when it comes to unveiling the nuts and bolts behind their shift of perception?

#### *6.2.3.2 Assessing the explanatory power of additional factors*

As seen above, establishing a causal link between changes observed at the domestic level and the European policy-making is a difficult task. Researching alternative factors – both domestic and global – appears more promising in explaining the rise of a new conception of labour migration from the part of economic non-state actors. Two (independent) variables are presented here: the connection between labour shortage and immigration policy, as well as the wider global economic view on migration.

Starting in the early years 2000, employer associations established a direct connection between the need for foreign migrants and the pressing issue of skilled labour shortage (*Fachkräftemangel* in German) in a knowledge-based economy.<sup>101</sup> This shortage was (and still is) considered highly problematic in a declining and ageing population. It is worth noting that Germany has had one of the lowest birth rates in Europe for decades. This rate has decreased continuously since the end of the 1960s in the, then, two parts of Germany. In the Federal Republic, the lowest fertility rate was recorded in the mid-1980s with less than 1.3 children per woman. By 1990, it was 1.45 prior to stabilizing at around 1.4 children per woman. In the former GDR, political measures taken in favour of children caused the birth rate to reach 1.94 children per woman in 1980. However, the fertility rate decreased after this short episode. German reunification resulted in a drop of the number of children per woman in the new Länder (for additional statistics, see the website of the Federal Statistical Office of Germany, DSTATIS 2017). A report of the United Nations released in 2000 projected that Germany would need 3.6 million newcomers per year between 2000 and 2050 in order to maintain the size of its working population (United Nations 2000).<sup>102</sup> As a result of this demographic evolution, '[...] labor market *shortages*, particularly in highly skilled niches or unattractive low-pay sectors already surface [in 2009]' (Menz 2009, p.170; italics in original).

German economic actors presented migration under a human resource prism targeted at foreign talents capable of contributing to the competitiveness of the German economy (see chapter 4 for a detailed account). This new perception of German economic actors rested on the idea that migration had to be 'managed' to benefit the national economy. Trade unions themselves supported the idea of regulated migration, preferable, in their view, to the uncontrolled arrival of foreigners (see Menz 2007, p.2). Employer organisations, on their side, depicted immigration as a way to address labour shortages, which they presented as an imminent threat to German economic growth. Illustrations of this argumentation abound in the German press. At numerous occasions, business leaders asked the Red-Green government

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<sup>101</sup> Beyond the sole argumentation of German economic non-state actors, the idea of labour shortages has been repeatedly addressed by research institutes until today. To give an example, the Cologne Institute for Economic Research published a report on the subject (Koppel and Plünnecke 2009).

<sup>102</sup> The figure of 3.6 million immigrants per year seems particularly high. Over a 50-year period, this would amount to 180 million newcomers. However, what I wish to underline is that this report participated in placing the topic of labour immigration high on the German political agenda.

to intervene to facilitate the entry of foreign talents into Germany. For instance, Klaus Mangold, then a member of the Board of Management of DaimlerChrysler AG, explained: '[i]t is increasingly difficult for us to meet the demand for qualified IT staff' (Michel 2000; own translation). Moreover, the former Director for Germany of the American IT group Hewlett-Packard, Jörg Menno Harms, warned against repercussions of gaps in labour supply on German growth. Mr Harms further advocated the rapid establishment of 30,000 visas, particularly for young IT entrepreneurs, who might otherwise go to Holland or Switzerland to build their business (ibid.).

On the opening of the 2001 CeBIT in Hanover, the Federal Association for Information Technology, Telecommunications and New Media (Bitkom) urged the federal government to address the problem of skills shortages head on. In the view of its president of the time, Volker Jung (who happened to also be Vice-President of the BDI), the federal government needed to ease the arrival of the world's best talents and minds, who predominantly chose the United States (Süddeutsche Zeitung 2001). Mr Jung demanded that an 'active immigration policy' be introduced by the German government (Munsberg and Wendel 2001). In light of the above, the labour shortage issue stands out as an important driver behind the change of economic actors' perception of immigration policy. The link is particularly clear for businesses facing recruitment issues. As for the DGB, its cognitive evolution rested on the desire to avoid chaotic immigration movements, rather than to promote a talent-oriented immigration scheme per se.

Beside domestic concerns, interest groups' conception on labour immigration may also be linked to the global diffusion of the 'managed migration' paradigm. As explained in chapter 4, this 'neoliberal' conception of migration rests on the idea that in order to be competitive in a globalised economy, immigration policies should adopt a human resource strategy. Proponents of this view, including international organisations, argue that migration should be administered to maximise the benefits of migration and minimise its negative effects. Chief executive officers of big groups are particularly keen to adopt the 'managed migration' paradigm they depict as beneficial for their worldwide activity and capable of addressing their recruitment issues. Considering the resonance of this utilitarian approach in the discourse of political and non-political actors, one may presume that this outlook on migration had a substantial influence on the evolution of perceptions of both employer and employee

organisations. It is worth recalling at this point that the philosophy behind the Blue Card initiative rested on this same global trend, which consisted in framing labour immigration as an instrumental and managerial phenomenon. However, findings seem to suggest that both Europe and domestic German stakeholders came to adopt the globally diffused notion of 'managed migration' in isolation from one another.

## 6.3 French case

### 6.3.1 From the dogma of 'zero immigration' to the actively 'managed migration' perspective

France has traditionally been a country of immigration. However, the reorientation of the French conception of immigration has primarily taken the form of a symbolic and rhetorical shift, leaving the general contours of immigration policy largely untouched (see Lochak 2002; Menz 2009; Carvalho and Geddes 2012). Together with the approximation of immigration and national identity, the promotion of 'managed migration' fits into this general scheme. With this in mind, the analysis below sets out to capture the change of perspective brought about by the notion of *immigration choisie*.

#### 6.3.1.1 An immigration policy based on the 'zero immigration' slogan

The examination of French immigration policy between the 1970s and 1990s exhibits considerable continuity. The red thread throughout these years takes the form of a repressive policy based on the central idea of the control of migratory flows (Lochak 2002, pp.214-215). As illustrated below, right-wing and left-wing governments did leave their particular marks on French immigration policy, but the general national paradigm remained intact throughout these years. Danièle Lochak notes that policies adopted by left-wing governments '[...] will always produce an ambivalent effect'. On one side, rights suppressed by the right wing are restored, but on the other, central repressive devices are confirmed (Lochak 2002, p.215).

As was the case in other European countries, French immigration policy came to a halt with the 1973 oil crisis. This episode opened the way for a long-lasting trend marked by a restrictive strategy. Whereas the country had opened its labour market to foreigners in the period following the Second World War, the 1970s saw the rise of a restrictive approach. The aim no longer consisted in welcoming people from the outside, but rather in curbing migration.

During the seven-year term of President Giscard d'Estaing, immigration policy became increasingly restrictive under the dual influence of the rise of unemployment and an influential security-centred discourse (Lochak 2002, p.209). Virginie Guiraudon writes: 'There were even attempts, under the conservative presidency of Valéry Giscard d'Estaing, to reverse the flow of immigrants by refusing to renew their residency permit' (Guiraudon 2001). The then Secretary of State for Manual Labour, Lionel Stoléru, was a key promoter of this perspective. Not only did he stand in favour of the complete interruption of immigration, but he aimed to reduce the volume of foreign residents as well (Lochak 2002, p.210).

The arrival in power of the Left in May 1981 somewhat eased the restrictive perspective on immigration policy. The government of President François Mitterrand wished to depart from the dual perception of immigration policy alluded to above and adopted a more open, liberal stance in this area. Hence, immigrants were no longer considered as mere economic adjustment variables and the security-driven logic was abandoned. As illustration, the law of 17 July 1984 institutionalised the long-term establishment of foreign populations on French territory and separated the right of residence from having a professional occupation. This legislation marked a turning point, both practical and symbolic, in French immigration policy. The creation of a residence card, to which all foreigners living in France for over three years and those having personal and family ties in the country were entitled, indicated that immigrants were considered a component of French society (Lochak 2002, p.211). This episode, however, did not lead to a revision of the general paradigm. The strengthening of border controls to combat illegal immigration, the hardening of legal sentences in case of illegal entry and stay on French territory are two examples among many illustrating this point (ibid., p.215).

The 1986 Pasqua Law<sup>103</sup>, adopted by the right-wing majority, took a step backwards towards more restriction. The legislative text restored the right of prefects to expel illegal immigrants out of the country. What is more, it tightened conditions to obtain a residence permit and made expulsion measures easier to carry out. Notwithstanding the return of the Left to a more open immigration policy during the 1988-1993 period, the return to power of the Right was

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<sup>103</sup> This law, like the one of 1993, was named after Charles Pasqua, the Minister of the Interior from 1986 to 1988, under the cohabitation government of Jacques Chirac and from 1993 to 1995 under the government of Prime Minister Édouard Balladur.

characterised, once again, by the restoration of a restrictive approach to immigration. The 1993 Pasqua Law was emblematic in this sense, as most provisions sought to strengthen the repressive aspects of French immigration policy. These provisions comprised the more systematic expulsion of illegal immigrants from French territory, limited access for a series of foreigners including alien spouses and French-born children of immigrants (Menz 2009, p.140). Within this context, Charles Pasqua described the position of the government in the following terms: 'Our objective [...] is to work towards zero immigration. "Zero immigration" is naturally unfeasible because our economy may need certain categories of foreigners here and there. But it must be the trend. Our duty is to reduce flows as much as possible. [...] To state it clearly: France has been a country of immigration, it no longer wants to be one. It no longer has the means for this' (Le Monde 1993; own translation). The advocacy of 'zero immigration' was part of the governmental response to the rising popularity of the extreme-right National Front party (Guiraudon 2001) or, said differently, 'the increasing *lepénisation* of the issue' (Menz 2009, p.140).

#### *6.3.1.2 The rediscovery of economic migration*

French immigration policy has been predominantly characterised by a notably restrictive perception of immigration policy (Guiraudon 2001; Lochak 2002). Yet, a new rhetoric took form in the late 1990s, with the return to power of the Socialist party. An early sign of this evolution is visible in the 1997 report entitled 'L'immigration et la nationalité' written by the political scientist Patrick Weil at the request of Prime Minister Lionel Jospin. This document underlined the negative aftermath of the 1993 Pasqua law for the French economy, which prevented talents from around the world from settling in France. Weil recommended particularly the creation of favourable conditions to attract highly skilled professionals with specific talents (Guiraudon 2001). On the basis of these prescriptions, the immigration law adopted in 1998 (also known as the 'Chevènement law') opened new immigration channels for scholars and scientists. Along the same logic, two 1998 administrative circulars of the Ministry of Employment and Solidarity and the Interior Ministry requested regional authorities to consider residence permit applications from IT specialists favourably (Ministère de l'Emploi et de la Solidarité and Ministère de l'Intérieur 1998). In these circumstances, the leitmotiv of zero immigration was gradually forsaken, by both left- and right-wing politicians



(Menz 2009, p.146) and replaced by a pragmatic, utilitarian view of domestic immigration, based on the notion of ‘managed migration’.

The conception of French political actors on immigration policy evolved with time, at least as far as discourse is concerned. This change was initiated by the Right, despite the fact that it had displayed a rather restrictionist stance in the 1980s and 1990s (Menz 2009, p.140). A manifestation of this alteration occurred in 1999, when former Prime Minister Alain Juppé – in the opposition following his resignation as Prime Minister in June 1997 and the appointment of his successor, the Socialist Lionel Jospin<sup>104</sup> – departed from the traditional security –focused discourse of the Right political family. In an interview given to the newspaper ‘Le Monde’, Alain Juppé explained: “‘Zero immigration’ does not mean much: family reunification is a right and Europe, given its demography, will certainly need foreign labour input’. (Le Monde 1999; own translation). Alain Juppé further pleaded for a ‘national consensus’ on the subject, adding that a dissipation of tensions was possible given the economic context of the time and an increased tolerance of the French population (ibid.). In the year 2000, the journalist Philippe Bernard noted: ‘The prospect of a certain opening of borders is no longer taboo and now contributes to the debate’. Bernard further pointed at the rhetorical shift from ‘the demagogical discourse of the Pasqua years’ aiming at ‘zero immigration’ to a ‘nascent debate on how to partially open borders’ (Bernard 2000; own translation).

Evolution towards ‘managed migration’ in the French context was particularly visible in the doctrine of Nicolas Sarkozy. In 2002, the then Minister of Interior<sup>105</sup>, reopened the debate on immigration in an attempt to move beyond what he described as an oscillation between ‘zero immigration’ on one side, and calls for ‘global regularisation’ on the other. In doing so, Sarkozy put forward the idea of *immigration choisie* (or ‘chosen immigration’). Defined in opposition to *immigration subie* (or ‘suffered immigration’, i.e. asylum seekers and family reunification), it brought with it a new outlook on immigration, seen as a positive phenomenon, necessary for the French economy, rather than as a fatality (Le Monde 2005). It rested on the idea that France, like any other country, had the right to ‘choose those it wishes to welcome and those it did

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<sup>104</sup> Danièle Lochak suggests that the Right was more inclined to take ambitious measures when it was in the opposition, than when it held power (Lochak 2002, p.228).

<sup>105</sup> Nicolas Sarkozy became Minister of the Interior, Internal Security and Local Freedoms in the government of Jean-Pierre Raffarin, who became Prime Minister after the re-election of President Jacques Chirac in May 2002.

not' (Reuters 2002; own translation). It is worth noting that such a positioning was far from evident among most right-wing parliamentarians and voters, who advocated first and foremost border closure and the fight against illegal immigration. Consequently, Sarkozy had to convince his own troops of the merits of his approach (Wihtol de Wenden *et al.* 2007, p.83). Within this wider frame, Sarkozy promoted the establishment of 'quotas', in order to define the number of third-country nationals allowed to come to France on an annual basis.<sup>106</sup> This emphasis on the selection and selectivity of migrants was a way for the presidential candidate to both distance himself from the positions of President Chirac and to woo the far-right electorate by making use of a forceful language (Carvalho and Geddes 2012, p.283).

Among the legislative developments, the law of 24 July 2006 marked an important milestone in the evolution of French immigration policy. The law foresaw the creation of a 'Competence and talent card' (*carte compétence et talents*), which aimed to facilitate the stay of highly skilled migrants (as well as students and seasonal workers). This provision represented an important move – at least symbolically<sup>107</sup> – away from the post-1973 doctrine. As noted by Georg Menz, '[...] actively solicited and chosen economic migration [was] being welcomed again [...]' for the first time since the halt of active foreign recruitment schemes in the 1970s (Menz 2009, p. 148).

### 6.3.2 The positioning of interest groups in the context of national debate on labour immigration

The study of the French case reveals highly contrasting attitudes of employer associations and labour unions vis-à-vis labour immigration and the focus on highly skilled third-country nationals. For many years, the former remained discreet when engaging on this topic, preferring talks behind closed doors to public campaigns. The high politicisation of the subject, together with rising levels of unemployment rendered open positioning particularly problematic. The situation seems to have evolved with the revival of the immigration debate

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<sup>106</sup> Sarkozy was careful not to use the word, which was particularly polemical in the French debate (see Ouest France 2002; Fouteau 2005).

<sup>107</sup> Catherine Wihtol de Wenden provides an interesting clarification on the largely symbolic dimension of the 2006 immigration law. She writes: ' [...] the effectiveness of the law was mostly symbolic, only opening borders to some thousands of newcomers while at the same time strongly reducing opportunities for family reunification and asylum' (Wihtol de Wenden 2011, p.65). More generally, this symbolic dimension characterises French immigration policy throughout the Sarkozy era (Carvalho and Geddes 2012).

in France (see description above). Evidence points to the exploitation of this opportunity by employers to express their support for a policy targeted at attracting skilled aliens. The picture looks very different on the side of trade unions, whose lobbying initiatives appear rather scarce. Generally speaking, the subject of active recruitment programmes towards highly skilled migrants is not part of their primary concerns (see chapter 5). This said, let us examine the reaction of these actors in more detail.

Looking back, French businesses have displayed a high level of interest for the recruitment of foreign workforce prior to the official end of labour immigration programmes of the 1970s: '[...] farms in the first part of the twentieth century and major manufacturing companies in sectors including construction, automobile assembly, metallurgy, and iron and steel during the postwar boom, were highly interested in labor recruitment [...]' (Menz 2009, p.137). Yet, the MEDEF showed renewed interest in labour migration rather late. Findings seem to suggest that the CGPME did not mobilise on the topic to the same degree (see chapter 4). For years, firms in need of third-country highly skilled talents were content with the 1998 Chevènement Law, which provided for the simplification of administrative procedures for economic migrants.

Evidence points to a change of attitude in the early 2000s, particularly from the part of big industries within MEDEF, resulting from worries over finding the right profiles. Whereas, in the past, shortages of staff had predominantly concerned the building and catering sectors, the phenomenon was expanding to IT, insurances and banks. Against this backdrop, French employers, who had displayed no joint strategy on labour recruitment until then, began to acknowledge the need to reshape economic migration policy to address the problem more efficiently (see Cornuau and Dunezat 2008). In 1999 already, the Deputy Secretary-General of UIMM, Denis Gautier-Sauvagnac, tested the waters by claiming that 'it would not be absurd to reverse migratory flows'. On similar grounds, Jean-Louis Giral – a well-known former business director – repeatedly recalled 'the need to renew the stock of foreign labour' (Monnot and Zappi 2001; own translation). Lastly, leaders of SMEs in the building sector expressed their desire to hire young foreigners to renew the immigrant population in replacement of an ageing immigrant population (ibid.). By 2005, the tone was visibly more confident. In an article entitled 'Business leaders want to call on "skilled workers"' (Barroux 2005; own translation)

the, then, Vice-President, Deputy Secretary-General of UIMM claimed: 'Demographic change makes a new selective immigration policy inevitable'. Along the same lines, the President of the Textile Industries Union pinpointed 'the need to call on skilled immigration' as a response to the risk of limited economic growth and to the non-renewal of generations (ibid.; own translation). His colleague from the FFB expressed his support for 'an immigration of persons, provided that it is targeted' and does not run counter to curbing unemployment within the French population (ibid.; own translation).

These economic players played a central role in shaping a new perspective on labour immigration. Under their influence (and the production of numerous reports on the topic), left-wing governmental representatives, who were at first unwilling to embrace change, opened themselves to the idea of promoting labour immigration (Monnot and Zappi 2001). What is more, the French confederation was regularly consulted by ministry representatives in the area. Georg Menz underscores that the MEDEF '[...] played an essential role in shaping governmental thinking about the need for more flexible, nonbureaucratic, and accommodating labor recruitment policies, especially regarding highly skilled professionals in information technology, management, and research' (Menz 2009, pp.148-149).

Reactions of labour unions vis-à-vis the growing interest for labour migration, and particularly foreign talents were more critical, in comparison to employer associations. Labour unions were divided on the issue and had no general interest in promoting new labour foreign recruitment schemes. They were mainly concerned with the promotion of human rights, the fight against discrimination and racism (see chapter 5). This said, employee organisations did take advantage of parliamentary discussions on immigration draft legislations to voice their concerns.

Within this context, the perception of labour unions on economic migration did not change drastically, to say the least. The centrist CFDT was very sceptical vis-à-vis the categorisation of migrants, therefore opposing any kind of *immigration choisie*. A parallel may be drawn with the position it held when the European Commission's perspective on immigration policy shifted from an all-encompassing perspective to a 'salami-slicing' (*saucissonnage*) approach (see chapter 5). The more left-wing actor General Confederation of Labour was particularly critical of the idea of a selective immigration policy, viewing the concept of *immigration choisie*

as benefitting business and running counter to workers' rights (CGT 2004). Together with NGOs, the CGT stood against what it named 'throwaway immigration' (*immigration jetable*), co-organising demonstrations to counter the cognitive evolution towards a utilitarian, selective conception of labour immigration (see Le Monde 2006). As for Force Ouvrière, findings point to a similar stance vis-à-vis 'chosen immigration'. A press release issued by FO in April 2006, shortly before discussions on the draft bill on immigration and integration at the National Assembly, summarises this position particularly well. In this document, the union argues: 'By introducing a so-called 'chosen' immigration' policy based on demographic or economic needs, the draft law leads to considering migrant workers as a commodity'. It further incriminates the utilitarian conception of immigration, which by putting migrants in the permanent fear of losing their residence permit and restricting access to family life, violates 'republican' values and makes integration more difficult (FO 2006).

### 6.3.3 To what extent can the change of perception of interest groups be attributed to Europe?

This section seeks to establish the causal significance of the EU on interest groups' change of perception. Creating a counterfactual scenario enables us to explore whether these changes would have occurred in the absence of the Blue Card decision-making process. As underlined in the case of Germany, establishing a bridge between Europe and the change of perception of domestic economic actors on highly skilled immigration is no easy task, given that the effects of Europe on actors' understanding of the topic is not readily apparent. This said, findings do leave room for interpretation when it comes to assessing the significance of the European factor as regards employers. Prior to beginning our counterfactual thought experiment, it is important to underscore a limit of the exercise. Applied to Europeanisation, counterfactual reasoning is a method, which enables us to explore the contribution of the European Union to domestic change. This, logically, presumes that some kind of transformation – cognitive in this instance – has been observed in the first place. How, then, are we to deal with French labour unions, which conception on highly skilled immigration, and labour immigration more generally, has either displayed strong signs of continuity over the years or being largely absent?

A CFDT interviewee provided the following answer to the question:

‘Europe greatly inspired us at the end of the 1990s, until 2002 or so. Since then, Europe has not been a driver anymore, tangled up in market-related discussions. From then on, the European preference for a categorisation of persons radically departed from our conception of mobility and migration’ (Interview 30; own translation).

As for the CGT, it had not given in-depth thought to the topic of economic immigration at the time of the Blue Card decision-making process (Interview 29). Similarly, FO showed absolutely no sign of interest for this area (Interview 31). Hence, in the absence of tangible shift of perception on highly skilled immigration, explaining change amounts to squaring the circle. Consequently, the counterfactual scenario in the French case focuses on employers.

The counterfactual analysis below provides an experiment from which the EU is absent. In this imaginary situation, would French employers have demonstrated a renewed interest for labour immigration policy, and highly skilled foreigners in particular? As noted above, French employer organisations, notably the UIMM, adopted a new conception on labour immigration based on the idea of managed and selected immigration. The prime justification for this was the alleged rising issue of labour shortages in a growing number of sectors due to the ageing of the population and the decline of the working population. Although arguably not with the same intensity as their German counterparts, French employers were encouraged to adapt their stance on labour immigration in order to cope with recruitment difficulties. A series of domestic and international developments provide plausible explanations for this gradual change of attitude.

At the national level, the growing acceptance of the political spheres to discuss labour immigration has arguably played a role in the cognitive evolution of employers. Although evidence collected suggests that employers initiated the movement, it may be argued that the growing favourable political climate, together with the close contacts between the French government and businesses, facilitated the shift. Furthermore, the ideological proximity between Nicolas Sarkozy (Interior Minister and subsequently President of France) and the

MEDEF on labour immigration policy also potentially played its part.<sup>108</sup> Another factor behind the shift of perception of French employers may be structural. Like most developed economies around the world, the face of the French economy changed with the multiplication of global-scale economic ties and the advent of a new economy highly concentrated on services, most notably information and communication technologies. Major French employer federations had to adapt to this new reality in order to keep pace in the global competition race. The ability to recruit top personnel rapidly is often presented by CEOs of major groups as an important aspect of competitiveness. Within this context, one may presume that employers saw an interest in abandoning their largely silent strategy and in publicly advocating a new labour immigration policy design.

Turning to the international dimension, the global diffusion of the ‘managed immigration’ paradigm may also have affected the cognitive evolution of French employers. To what degree reports of international organisations on the subject influenced the perception of some French employers on highly skilled immigration is subject to discussion. What can be documented, however, is the resonance of these publications in the French media, and more generally in the debate on migration policy. The 2000 report of the Population Division of the United Nations, by presenting immigration as the only solution to address the decline of the working population, stirred much interest and controversy (e.g. Bernard 2000; Delattre and Zappi 2000). Although extensively criticised, this report has nonetheless acted as a trigger in the minds of many. As such, the discourse of international bodies participated in the cognitive change of certain economic actors. If, at this point, some had not yet embraced the new paradigm entirely, at least the idea that a pro-active ‘managed immigration’ was progressing.

In light of the above, what conclusions can be drawn on the Europeanisation of actors in the French case? Following the counterfactual logic, the transformative effects of the European Union on domestic actors derives from different evolutions emerging from the thought experiment. In other words, if changes observed at the national level display different characteristics in the absence of Europe, one may conclude that the latter is a driving force behind observed domestic mutations. As far as French employer federations are concerned,

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<sup>108</sup> The discourse of Nicolas Sarkozy on ‘chosen’ immigration largely echoed the view of the MEDEF (see the speech held by Nicolas Sarkozy at the 2006 MEDEF summer school, MEDEF 2006).

the diagnosis is difficult to establish. Discrepancy between a European-integration scenario and a storyline deprived of the European factor is not evident. One would be tempted to claim that domestic and global factors suffice to explain the rediscovery of labour migration of a portion of French employers. Although clear-cut conclusions are out of reach, available data predominantly points to the influence of domestic and global factors. The alleged rise of labour shortages, a favourable political background, combined with a highly influential rhetoric on 'managed immigration' policy conveyed by international organisations provide food for thought when trying to establish the causal weight of these different factors.

## **6.4 Luxembourgish case**

### **6.4.1 From an industrial to a largely knowledge-based economy**

The face of the economy of the Grand Duchy of Luxembourg has experienced considerable change since the 1970s. Once driven by the growth of iron ore mining and the development of the steel industry (in the period 1871-1973) (see Pauly 2010; Scuto 2010), the economic structure underwent a move towards the tertiary sector, most notably banking and insurance activities. This section reviews the modalities of this shift, first providing a short historical narrative of this change and subsequently examining the circumstances surrounding the emergence of the 'managed immigration' paradigm in national debates on immigration (and integration).

#### *6.4.1.1 Economic transformations and the rise of a financial centre*

Considering that financial centres tend to emerge in large cities, which combine commercial dynamism and a high concentration of highly educated persons, few could have predicted at the beginning of the 20<sup>th</sup> century that Luxembourg would become an international financial hub. Somewhat in dissonance with these key aspects, the Grand Duchy, in this period, owed a paramount share of its economic development to the iron and steel industry. The latter rested primarily on foreign labour force fulfilling arduous work that required very little (if any) qualification. Yet, Luxembourg eventually emerged as a major financial hub.

The economic history of the Grand Duchy may be divided up into three phases. At the early stage of its development, in the 1970s, the success of the financial sector rested predominantly on the boom of the Euromarket and the holding companies regime. The latter granted favourable taxation conditions, which encouraged the creation of a high number of such



companies in the country (Michaux 2013). In the 1980s, the financial place repositioned itself on private wealth management, taking the third place in the international investment fund industry after the United States and France by the end of the decade. The sharp increase of the number of banks in Luxembourg illustrates the dynamism of the sector. Whereas the number of banks in the country amounted 13 in 1947, it reached 19 in 1960 and 111 in 1980 (Kreins 2015, p.109). Both exogenous and endogenous factors provide interesting insights as to how this economic evolution came to be. The two economic crises of the first decade of the 21<sup>st</sup> century took their toll on the Luxembourgish financial centre. I now examine these three moments in more detail.

One of the initial drivers behind the creation of competing financial centres, including Luxembourg, was initiated by the United States. How can this be explained? Since the end of the Second World War, the U.S. had become the world's major fund donor and was witnessing an increase demand for US dollars from European banks eager to build financial reserves. The constant increase of international borrowings on the New York financial market led to deterioration of the balance of payments. Anxious to decrease the export of capital and to redress the commercial balance, the US administration introduced an 'interest equalisation tax' in 1963. By taxing the purchase of foreign securities, this measure aimed to make it less profitable for U.S. residents to invest abroad. As a result, foreign borrowers turned to other markets to cover their need for dollars. The Eurodollar was born. The attractiveness of this new currency was further reinforced by the obligation of American multinationals to finance their foreign-based activities outside the United States (Michaux 2013). Whereas cities such as Amsterdam, London, and Zurich took part in the Eurodollar market, various national legislations hindered the free movement of capital across Europe.

The Luxembourgish government took the opportunity to position itself in a newly internationalised financial market.<sup>109</sup> Gradually, measures were adopted to attract foreign financial capital, which included administrative flexibility, the absence of a Central Bank, and a long tradition of banking secrecy. As time passed, foreign investors came to appreciate the

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<sup>109</sup> As written in a STATEC report on the banking sector in Luxembourg, '[i]t can be argued that the emergence of the Euromarket marked the beginning of the internationalisation of the financial markets rightly considered as the precursors of this globalisation, which will eventually dominate the business world' (Michaux 2013; own translation).

social and political stability of the country, the setting up of international financial institutions (i.e. the European Investment Bank and the European Court of Auditors), flexible legislation as regards the establishment of collective investment schemes, a strict banking surveillance of the financial sector, and strong legislation vis-à-vis capital of dubious origin (Kreins 2015, pp.110-111). The introduction of additional foreign currencies – initially the Deutsche Mark – further consolidated the importance of the Luxembourg financial platform. German banks, soon followed by French and Belgian financial institutions opened offices in the Grand Duchy. By the mid-1990s, U.S and Japanese multinationals were also present.

The leading position of Luxembourg on the Euromarket eventually terminated in the 1980s. At least two reasons may be given for this change of situation. First, the international debt crisis severely affected Luxembourg-based financial actors. The latter had lent money on a large scale to emerging countries that could no longer meet their financial commitments because of their overestimation of the price of their raw materials. Second, the rapid financial expansion of the Grand Duchy had eventually prompted reaction from rival finance centres. The City of London was notably active in taking market shares away from the Luxembourgish financial place. As a result, banks in Luxembourg revised their strategy. For one thing, they shifted their activity to a segment expected to grow significantly: private customers. In a context of high economic growth, where consumption and savings were on the rise, investment funds soon dominated the national financial landscape. What is more, Luxembourg reached the third place internationally in this industry. As further illustration of the dynamism of the banking sector in these years, one could also mention the development of services related to the e-commerce or European mortgage bonds.

Economic downturns of the first decade of the 21<sup>st</sup> century had their toll on the health of the Luxembourgish financial sector. The bursting of the technological bubble in 2000-2001, followed by the September 2001 terrorist attacks in New York had a negative effect on the banking business in the Grand-Duchy. This said, the 2008 sub-prime turmoil and the subsequent global economic and financial crisis had a much significant and long-lasting impact on banks. To give an example, Private Banking is threatened by the partial or total lift of banking secrecy. This said, investment funds remain a strong component of the financial sector in Luxembourg.

#### 6.4.1.2 *The advent of a proactive management of labour immigration*

The prominent role played by immigrants in the prosperity of the Grand Duchy has been a recurrent characteristic of the Luxembourgish economy, at least since the 17<sup>th</sup> century (see Pauly 2007).<sup>110</sup> As he puts it, '[l]ocated at the crossroads of two great European cultures [...] Luxembourg has naturally undergone the influence of foreigners since it exists as a geographical entity. Governed for almost five centuries by foreign princes [...] our country has always known – perhaps more than other European nations – immigrants of clerks and administrators, craftsmen and traders' (Pauly 1985, p.7; own translation). By contrast, the presence of a deliberate immigration policy – and its corollary, integration policy – is relatively new.

In the early 1970s, the presence of foreign workers on Luxembourgish soil began to be perceived as a structural reality, without which both major groups and SMEs would find themselves in a highly critical situation (e.g. Avis du Conseil d'État 1971, cited in Scuto 2010, p.33). In resonance with this evolution, the Luxembourgish government opted for an active recruitment policy of foreign workforce for the first time in its history. It is worth noting that this evolution contrasted significantly with what could be observed in the past. Until the late 1960s, change did occur, but had to do predominantly with the evolution of economic sectors hiring foreign labour. Instead, the establishment of a pro-active policy mirrored a reshaping of the perception on economic immigration itself.

The year 1972 marked a turning point in this paradigm shift, as the 'zero immigration' motto (adopted in the aftermath of the first oil crisis)<sup>111</sup> gave way to what could be called a 'prudent' stance. The latter was based on a selective approach that gave pre-eminence to European, white, catholic candidates for immigration. To give a few examples, Luxembourg signed two bilateral agreements with Portugal and Yugoslavia in 1970, ratified by the Chamber of Deputies in 1972 (Scuto 2010, p.32). The agreement with Yugoslavia did not include family reunification, contrary to the one with Portugal. The same year, the law of 28 March 1972 on

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<sup>110</sup> This said, economic immigration in Luxembourg is generally traced back to the industrial revolution of the second half of the 19<sup>th</sup> century (see, e.g. the title of a conference organised by the CLAE in 2000: 'A century of immigration in Luxembourg', CLAE 2001; Trausch 1985; Hoffmann 2002).

<sup>111</sup> The 'zero immigration' paradigm did not fit the economic reality of Luxembourg. Immigration continued throughout the 1970s, albeit at a slower pace.

the entry and residence of foreign nationals – the central legal instrument of immigration at the time – entered into force.<sup>112</sup> The law of 1972 targeted non-EU employees, especially Portugal (prior to its accession to the EEC in 1986). Its provisions were particularly restrictive and included the expulsion of foreigners guilty of violating public order, security or public health (Mémorial 1972, Article 9).

Immigration came back in the limelight in the early 2000s, in connection with discussions on the future of the Luxembourgish pension scheme and social benefits more generally. The speech on the State of the Nation of then Prime Minister Jean-Claude Juncker, and his slogan of ‘a country of 700,000 inhabitants, arguably marked a milestone in what was to trigger a reassessment of the weight of economic immigration in the Luxembourgish society. The backbone of his argument centred on the idea that the safeguard of Luxembourg’s generous pension system rested on a steady economic growth and continuous expansion of the labour market. This would be possible with a rise of the population of country, which, according to statistical projections, would eventually reach 700,000 inhabitants. This substantial increase would have major repercussions on infrastructural and educational needs, not to mention the necessity to hire additional civil servants in order to coordinate all this. In the end, tax income generated by this steady growth would barely cover incurred costs. What would occur if economic growth was to slow down instead? In that case, how could pensions be financed on the short and long runs? To do so, Jean-Claude Juncker called, among other things, for a reform of immigration policy (Juncker 2000).

The declarations of the Prime Minister launched discussion on the subject of immigration. Following the speech on the State of the Nation mentioned above, the government asked the president of the special parliamentary committee ‘immigration’<sup>113</sup>, Marcel Glesener, to prepare a study on possible medium-and long-term interrelations between immigration and the labour market (Glesener 2004). The central aim of this study (also known as the ‘Glesener Report’)

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<sup>112</sup> The 1972 immigration law was replaced by the law on the free movement of persons and immigration of 29 August 2008.

<sup>113</sup> The special parliamentary committee ‘immigration’ was created in June 2001 in the context of the debate launched by the Prime Minister. Under the chairmanship of Marcel Glesener, this special committee was in charge of preparing policy proposals in the area of immigration, with a view to nourishing a Public Orientation Debate on the issue. In reality, the blueprint left by the Glesener report on both the reflection of political actors and subsequent policy developments turned out to be very limited (Interview 45).

was to present ways in which the Luxembourgish government could ensure employers' labour needs to be met and the national welfare system to be preserved with a view to integration and social justice (ibid., p.6). Within this framework, the author touched upon the topic of highly skilled immigration under the prism of profiles of potential immigrants from EU candidate countries. As Marcel Glesener himself explains: 'Whereas, thirty years ago, the labour migration pattern mostly displayed signs of low-qualified labour migration, which materialised on the basis of labour agreements, today, mobility concerns highly qualified workers more and more' (ibid., p.47; own translation). The 2004 Declaration of Prime Minister Juncker on the programme of the newly elected government provides additional insight on this new impetus regarding immigration policy. In this speech, the Prime Minister formally declared that a new immigration law would be established (Juncker 2004). This explicit positioning expressed by the head of the government heralded the transition from political prospection to political action. As from that moment, immigration policy was well placed on the political agenda. This milestone opened the way for a profound remodelling of Luxembourg's immigration policy, including the inclusion of highly skilled immigration into national legislation.

#### 6.4.2 The positioning of interest groups in the context of national debate on labour immigration

Labour immigration has been simultaneously a recurring and delicate theme for the Luxembourgish labour unions. The latter – particularly the major two trade union actors, OGBL and LCGB – had difficulty positioning themselves on a subject that was at times utilised by employers to weaken trade unionism by constraining wages and breaking strikes. On one side, Luxembourgish trade union leaders looked upon immigration with suspicion and supported protectionist measures in an attempt to protect access to the national labour market. During the inter-war period, for instance, the BMIAV (ancestor of the OGBL created in 1920) exhibited signs of distrust vis-à-vis foreign workers. Anxious to protect national employment, it opposed the inflows of foreign workers and advocated the use of quotas. In the 1950s, labour unions opposed the possibility for immigrants to benefit from family reunification for fear of cheap labour competition. These concerns were taken into consideration by the Luxembourgish government, which, until the economic crisis of the 1970s, ensured the quasi-monopoly of Luxembourgers in the steel industry (Scuto 2010, pp.26-27). However, on the

other side, these same actors mobilised in favour of international solidarity and opposed expulsion measures targeted at left-wing workers. They further fought for better working conditions for all workers, non-Luxembourgers included. Ambivalence is also perceptible vis-à-vis the foreign population itself.

In an insightful contribution on trade unions and immigrants in Luxembourg, Adrien Thomas points to contrasted trade unions' vision on immigrants according to the cultural background of newcomers. The socialists and communists held different views. Whereas the former favoured workers from Northern Europe, seen as more 'progressive' and workers movement compatible, the latter gave preference to Latin and Polish workers, seen as holding more radical views and less inclined to embrace social-democratic institutionalisation (Thomas 2015). Hence, suspicion towards migrant workers coincided with a distinction between 'good' and 'bad' migrants. Labour unions oscillated between support of protectionist measures and international solidarity vis-à-vis migrant workers, or at least a portion of them.

The perception of Luxembourgish labour unions vis-à-vis immigration changed profoundly in the late 1960s and early 1970s. This change originated from the realisation that immigrants and their families had established permanent residency in Luxembourg, and that including them in the labour union movement and addressing their concerns was crucial for unions to maintain their negotiating power.<sup>114</sup> Within this context, labour unions encouraged the unionisation of foreign workers and themes dear to immigrant workers, such as housing, education, and discrimination were brought to the fore. Two points are worth noting at this point. First, the activism of both the OGBL and the LCGB targeted primarily EU citizens, and most notably cross-border workers (see Manenti 2002). Second, the topic of highly skilled third-country nationals was absent from the agenda of labour unions. As may be expected, and similarly to trends observed in other European countries, the latter concentrated its attention on disadvantaged populations active in low-wage sectors and most likely to suffer from poor working conditions and discrimination.

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<sup>114</sup> Italian and Portuguese temporary immigration turned into long-term and family immigration with the adoption of European legislation on the free movement of workers and their families. Consequently, new problems emerged, such as housing and school education.

In contrast to labour unions, business actors in Luxembourg have embraced labour immigration since the early years of the industrial revolution. As pointed out above, the rapid growth of the iron and steel industry required substantial foreign labour force. Given that a major part of Luxembourgish economy has depended on the input of foreigners for over a century, the topic is certainly not new to employers. Yet, it may be argued that their interest for an immigration policy emerged rather late. What did change over time are the profiles needed by firms. Until the first half of the 20<sup>th</sup> century, the national economy centred on the steel and iron industry, breweries and the tobacco industry. The building sector was also dynamic. In such circumstances, employers mostly needed manual labour. With the running out of steam of the steel sector, the take-off of the so-called 'knowledge economy' and the development of the finance sector, the need for a well-educated qualified workforce became an essential structural component of the economy of the Grand Duchy. Said differently, "In the era of the steel industry, employers' concern was essentially to find sufficient 'arms'. Today, 'brains' are what count" (Tausch 2002, p.174; own translation).

Periods of strong economic growth – such as 1984-2002, 2004-2007 – usually coincided with a high demand for foreign labour. Luxembourgish firms regularly lamented the insufficient capacity of the Greater Region to meet their needs for 'brains'.<sup>115</sup> This difficulty became a structural characteristics of the Luxembourgish economy. To quote the then head of human resources at the BGL Bank: '[a]s the labour force from the border regions is no longer sufficient to meet demand, employers must go further and further to seek the skills they need' (Deckenbrunnen 2002; own translation). In the words of the former Secretary General, and subsequent Director, of the UEL, '[a]lmost all economic sectors and economic branches are looking for either skilled personnel or highly specialised labour force, essential for economic growth' (Bley 2007, p.86; own translation). Luxembourgish employers had to deal with recruitment difficulty for some time. In the early years of 2000, surveys were carried out by the members of the UEL, at the instigation of the employers' organisation. They reported difficulty of firms across all sectors to find sufficient suitable profiles in the Greater Region (see Schmit 2001). In this context, Luxembourgish employers – both at the level of the UEL and

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<sup>115</sup> This claim has been subject to discussion. The predictions of the 2004 Glesener Report, for example, depart from the viewpoint of employers. It reads : '[a]lthough the diagnosis should remain cautious and nuanced, and even if different opinions persist on this subject, it seems that a considerable potential for labour from the Greater Region to Luxembourg will persist over the next two or three decades' (Glesener 2004, p.29).

individually – repeatedly advocated better access to the national labour market of a much needed foreign workforce from both the European Union and beyond in order to avoid a slow-down of the economy and to finance high social standards (Interviews 43 and 46; see also UEL 2005).

The recruitment of highly skilled third-country nationals emerged indirectly, within the broader debate on the competitiveness of Luxembourg. This debate mobilised three actors: the government, employers, and labour unions. The main question had to do with how to adapt the economic model to sustain the generous social system. Labour immigration came only second, as one option (among others) to deal with the problem. Social partners took place in discussions within the Tripartite Coordination Committee, on the basis of the 2004 Fontagné report. The author, Lionel Fontagné (a French University Professor of Economy) examined the ways in which the economic Luxembourgish scheme could be adapted in order to sustain the national social system. To do so, Fontagné suggested (among other recommendations) to adopt a more ambitious immigration policy capable of attracting foreign talents from EU countries and beyond (Fontagné 2004, p.40). This idea was widely supported by the business community (represented by the UEL), convinced that perennial economic growth rested on a constant input of foreign brains. By contrast, labour unions – OGBL and LCGB – adopted a conservative stance. They feared that the opening of borders for qualified non-nationals would disadvantage less-educated workers already working in Luxembourg. In this situation, the UEL tried to convince its labour union interlocutors of the negative repercussions on unionised, less qualified workers of the slowdown of the economy. It, however, failed to do so. What prevailed instead was a ‘dialogue of the deaf’ and ‘sterile talks’ (Interview 46). Exchanges between the two groups on how to define ‘competitiveness’ are particularly illustrative.

A revision of the national dashboard on competitiveness was envisaged on the basis of the Fontagné Report, a concertation with the Tripartite Coordination Committee, and with the support of the newly-created Conservatory of Competitiveness of the Ministry of the Economy (Fontagné 2004, p.9). New indicators were to be selected in the process. On one side, the OGBL and LCGB claimed their preference for a social and environmental conception of economic development. As is reported in the Fontagné report: ‘[t]herefore, a cooperative approach to



competitiveness should be promoted, integrating the objective of social cohesion and favouring the definition of European social minima' (Fontagné 2004, p.11). On the other side, the UEL believed that additional criteria should be included as well. In the absence of a consensus-driven mindset, conclusions on the labour market and necessary measures could not be drawn properly (Interview 46). In fact, the tripartite agreement I am talking about, dated 28 April 2006, does not make any reference to labour shortages and to ways of addressing the problem, particularly by adopting a pro-active immigration policy. Rather, remedies to combat economic downturns and foster long-term prosperity centred on higher education, research and innovation, energy policy, transport and IT infrastructures (Gouvernement du Grand-Duché de Luxembourg 2006a). Beside irreconcilable differences of views, the absence of a governmental arbitrator rendered a rapprochement of positions even more unlikely. More precisely, the Minister for Labour and Employment of the time exhibited rather low interest for economic matters. This lack of arbitration seemingly affected the work of the Economic and Social Council as well, insofar as the Luxembourgish Economic and Social Council left aside topics that were high on the political agenda, on which finding a common position was very unlikely. Instead, it focused on future long-term initiatives (Interview 46).

### 6.4.3 To what extent can the change of perception of interest groups be attributed to Europe?

#### 6.4.3.1 *A case of cognitive Europeanisation?*

After analysing the perception of labour unions and employers on immigration over time, let us try and assess the influence of Europe on these changes. The Luxembourgish case holds, *a priori*, promising prospects in terms of research results, given the generally high permeability of the society to the EU. In comparison to the German and French cases, references to the supranational decision-making level are particularly common in interest group publications and speeches (e.g. UEL 2005). Allusion to Europe is also widely spread in governmental documents (e.g. Chambre des Députés 2007).

Prior to embarking on a counterfactual scenario, a clarification should be made concerning actors under study. The point here is similar to the one made earlier in the French case, given that it concerns the absence of mobilisation of the OGBL and LCGB on the topic of highly skilled immigration. As underlined earlier, European legislative developments did play a part

in their move from a protectionist attitude towards foreigners to an inclusive approach of unionism. However, the foreigners we are talking about here are, for the vast majority, socially and economically disadvantaged EU nationals. As confirmed by the Head of the Migrant Department at OGBL, highly skilled immigration of third-country nationals was not a topic of interest for labour unions in Luxembourg (Interview 39). In these circumstances, one can see the limits of trying to establish a link between the Blue Card decision-making process and the positioning of interest groups whose attention lied elsewhere. For this reason, the present section focuses on the employer organisation UEL, for which counterfactual reasoning as well as information collected in the field appear to point to the existence of a correlation between the reflexion of the organisation on labour immigration and European developments taking place in this area.

Once again, the exercise here consists in assuming the absence of Europe in view of ultimately demonstrating the effects of European integration on domestic actors, in this case the Union of Luxembourgish Companies. The positioning of the UEL on competitiveness and labour shortages took form in the early years of the 21<sup>st</sup> century, at a time of increasing concerns on the long-term viability of the national welfare system in light of a slowdown of the economy (the annual gross domestic product went from +8.44 % in 2000 to +2.15 % in 2001 and remained below +8 % until the year 2007, *Perspective monde* 2016). In this period, members of the UEL unanimously reported difficulty in finding and hiring much needed profiles within the Greater Region and feared the rise of a recruitment bottleneck, which would substantially jeopardise their development, or their very existence. Banks and insurance companies, handicraft, IT and telecommunications firms, the building and logistics sectors, catering and hotels, to name a few, were all concerned by this issue. The general motto of employers was to ensure long-term economic growth. To do so, they advocated the need to open the national labour market and lower administrative hurdles to enable the quick and sound recruitment of skilled personnel from around the world (Interviews 43 and 46).

Nowhere, in this context, have I found allusions on the reflexion conducted by the European Commission on labour immigration policy, in the aftermath of the Tampere Summit (see chapter 4). The former Director of the UEL underscored great similarity between the discourse of the business organisation and the position of the European Commission on the topic (after

the revision of its paradigm, following the 2001 Directive proposal; see chapter 4). In fact, both UEL sources (e.g. UEL 2005) and European Commission documents (e.g. Commission of the European Communities 2005c, 2007a) emphasised the rising importance of the 'knowledge economy' and the global battle raging to attract the indispensable best and brightest. What is more, both portrayed the promotion of labour immigration of particular talents as beneficial for national economies in face of ageing populations and a depletion of the working population. Yet, unlike what could have been expected, leaving aside Europe did not alter the discourse held by the UEL and its members (i.e. ABBL, ACA, Chambre de Commerce, Chambre des Métiers, CLC, Fédération des Artisans, Fedil, Horesca). With or without the EU, their perspective on labour immigration remained unchanged. According to our UEL interlocutor, there could be a correlation between the ideas of the UEL and those of the European Commission but certainly no causal relationship (Interview 46). This seems highly plausible in light of data gathered in the field.

How can the absence of a strong European reference in national discussions, as revealed by interest groups' positions, be explained? As in the case of Germany and France, both domestic and international phenomena are presumably helpful in unveiling the rising concern of (certain) economic non-governmental actors regarding difficulty in finding adequate workforce.

For one thing, it appears that chronology did not favour EU influence on national debates. Similarly to what happened in Germany, the reflection of the European Commission on labour immigration arrived relatively late in the cognitive process of actors such as the UEL. It may be argued that the European Union did have an opportunity to influence national discussions in the beginning of the century, when economic immigration emerged in the political discourse as a way to combat the ageing of the population and to preserve the national welfare scheme and national cohesion. However, given the state of paralysis triggered by the 2001 Directive proposal of economic immigration and fierce tensions between a pro-integration Commission and very reluctant Member States (see chapter 4), the supranational institution, whose legitimacy to deal with the topic was questioned, was in no position to exert influence on domestic actors. When, a few years later, the EU institution reviewed its policy paradigm and released the Blue Card Directive proposal in 2007, the revision of the 1972 Luxembourgish

immigration law was already in full swing. The draft bill on the free movement of persons and immigration, released the same year, (which eventually led up to the adoption of the immigration law of 29 August 2008 setting up a national immigration policy for the first time in the history of the Grand Duchy) did mention EU developments in the field of immigration. However, a mention in passing certainly does not constitute evidence of influence from the part of Europe.

In addition to a largely independent national political agenda vis-à-vis the European Union, the chronology of economic evolutions seems also useful in explaining the absence of pregnant European referents at the domestic level. One may observe an increased interest of business actors for highly skilled recruitment in times of high economic growth. This link is usually explained by high activity levels at times of economic upturns, which requires an increased amount of workforce. In line with this reasoning, members of the UEL highlighted the period 2003-2007 as particularly talent-driven. Their high mobilisation on the subject ceased with the sudden drop of activity following the 2008 subprime crisis, and the following economic and financial global turmoil (Interviews 43 and 46). Consequently, by the time the Blue Card Directive was adopted by the Council of Ministers, in May 2009, labour immigration had become a much less salient issue for Luxembourgish employers. The transposition into national legislation of the Blue Card Directive in 2011 (Mémorial 2012) stirred minimal interest from the part of business community.

The global trend towards ‘managed immigration’ has presumably also played a role in the behaviour of Luxembourgish economic groups. At least, one does not see why it would not have been so. As a major finance centre and given the rise of a knowledge-based economy, the Grand Duchy integrated globalised networks were the idea of ‘managed immigration’ was thriving (see chapter 4 on the role played by international organisations in this diffusion). Although I was unable to find concrete evidence of this for Luxembourgish actors, I believe that a convergence of view on the need to promote highly skilled immigration within a more general competitiveness mindset is very likely.

## 6.5 Conclusion and discussion of findings

The absence of effects of European referents on views and conceptions of national economic actors in the case of the Blue Card decision-making process is surprising. Given the common outlook of both EU and national actors on the subject (based on 'managed immigration'), one could have expected some kind of diffusion of ideas to take place. Contrary to what I expected (Hypothesis 6), I found no evidence of European imprint on the cognitive frames of domestic interest groups, neither for employers' organisations nor labour unions. In addition, no connection between active engagement in Brussels and receptivity to European ideas could be established. Whether used to evolving in EU political arenas or exclusively nationally-driven, economic interest groups from the three countries under study did not demonstrate any sort of cognitive Europeanisation. As such, there is no discernible manifestation of EU-induced causal effects on actors' cognitive shifts. How can this be explained and what alternative explanations may account for the change of perception experienced by some domestic interests?

Several suggestions were presented in this chapter:

First, the chronological mismatch between EU-level reflexion on legal immigration and policy national debates displayed particularly disastrous effects on the capacity of the EU to influence domestic conceptions. Negotiations on the Blue Card Directive proposal began years after Germany and Luxembourg initiated a reform of their legal immigration policy. The subject of attracting talents from beyond Europe was no novelty for these countries, which had already forged their position on the subject.

Second, one may posit that the European Commission itself was not equipped at the time with a strongly defined European model, which could have been more impactful. As a newcomer in an area jealously guarded by Member States, which initiatives stirred much resistance from EU Member States, the European Commission was mostly concerned with making progress. This meant that it was ready to make substantial concessions and to modify its paradigm in order to move ahead, arguably to the detriment of strong positions. In these circumstances, ideas promoted by the EU resembled more a duplicate of what had been previously debated in domestic venues than a real breakthrough. As underscored in chapter 4, the value of the

engagement of the European Union in the field of legal immigration policy was primarily symbolic.

Third, the attitude of domestic actors vis-à-vis the activism of the EU (especially the European Commission) in the field of legal immigration made Europe's influence highly improbable. French and Luxembourgish interest groups contacted in the framework of this study shared a genuine disinterest for the Blue Card Directive decision-making process and its outcome. German actors who kept an eye on EU developments in this field did it for a negative reason, so to speak, as they sought to prevent (not promote) the progress of European integration in this sensitive field. An actor such as the BDA, which was both vociferously opposed to any involvement of the EU and well integrated in national political spheres of influence, had the means to prevent Europe from carrying out its ambitions in the area. In this context, it is hard to see how domestic interest groups could have been ambassadors of the EU initiative on the EU Blue Card.

Fourth, the shift to the idea of 'managed immigration' at the national level rested on at least two pillars – endogenous labour market drivers and global policy diffusion – from which the EU was largely absent. As regards the former, the need to develop legal immigration was justified by the importance to combat an ageing population and a decline of the working population. The setting up of selected legal immigration policies was presented as a way to secure the competitiveness of the national economy. One clearly sees that the rationale of the European Commission according to which national competitiveness would be better served by a European permit for highly skilled third-country nationals (as stated in the 2007 Commission Directive proposal) was not taken up in national discussions on the topic. As for the global diffusion of the new conception on labour immigration based on the idea of managed and selected immigration, its drivers may be traced back to the gradual introduction of a post-industrial, knowledge-based economy. The European model was very similar to the one promoted worldwide, but findings depict a rather isolated Europe that did not interact, at least directly, with the larger global context.

These findings leave open the question of how the diffusion of selective immigration, including those targeted at highly skilled employees, reached domestic interest groups (at least some of them). The data I collected suggests the influence of transnational networks

organised around central information providers such as the OECD and the United Nations (see chapter 4 on this particular point). Considering the competition among countries to attract the best and brightest in a so-called 'race for talents' (Shachar 2006) delivers interesting additional insight. Instead of explaining policy diffusion by referring to global economic pressures, this perspective focuses on emulation between destination countries that compete to attract world-class brains. In this scheme, the reference point does not come from indications provided by international organisations, but from what other rival immigration countries do to attract and retain foreign talents (Shachar calls this 'interjurisdictional influence', *ibid.*, p.153). In a highly competitive environment, states must closely follow the selective immigration strategies adopted by their competitors in order not to be left behind and to remain attractive to talented foreign workers. Emulation patterns usually take the form of transnational 'borrowing', learning, or 'importing' experiences carried out elsewhere (or competitive emulation). According to Ayelet Shachar, '[...] this policy emulation pattern, in which one country attempts to copy the success of another, is not informed by an international attempt to coordinate national policies or reach harmonization of admission standards. Rather, it exemplifies non-cooperative action taken by fiercely competitive jurisdictions' (*ibid.*, p.156). The author subsequently adds that when policy convergence between rival economies emerges, it is unintentional. This interpretation of policy diffusion is rather compelling because it depicts a multilevel and multiplayer game from which the European Union is nonexistent. As such, it could presumably apply to the diffusion of ideas on highly skilled immigration policy (although this would need to be confirmed by future research).

## 7 Conclusion

### 7.1 Summary of key findings

The overarching research question guiding this thesis centres on the different patterns of Europeanisation displayed by national economic interest groups in the case of the Blue Card policy-making process. Hence, the study provides a new outlook on German, French, and Luxembourgish actors' Europeanisation dynamics. It does so in two particular ways. On the one hand, the research contributes to the understanding of actors' activation of the EU level by adding an innovative qualitative dimension to a mainly quantitative body of works. As such, the endeavour consists in providing a detailed account of how different factors interact with one another, rather than testing discrete hypotheses along a falsifiable logic. On the other hand, the study has the merit of advancing the research agenda on how to deal with the notion of 'cognitive Europeanisation' and how to circumscribe the effects of the EU on domestic actors' referents. This perspective is particularly helpful in order to avoid the overdetermination of Europe when explaining national changes.

As far as the activation of the European supranational sphere by national groups is concerned, results point to different Europeanisation patterns across national interest groups. The contrast is most striking between German and French actors (findings on the strategy of Luxembourgish stakeholders are inconclusive for the most part). In the German case, both business and labour union organisations demonstrate a strong inclination to activate the supranational level. As regards the Blue Card policy-making process, this mobilisation is largely 'negative', in the sense that German actors – especially business organisations – are mainly driven by a desire to prevent European integration in the sensitive area of labour immigration policy. This high degree of Europeanisation may be explained by a combination of substantial financial resources (i.e. staff size), a high degree of EU-level participation on a subject seen as very important, together with a domestic corporatist interest intermediation system that promotes the participation of interest organisations in policy-making processes. It is worth stressing the importance of the latter, given that a clear link is established in the thesis between a national system that formally incorporates private actors into the policy-making process and the high inclination of German actors to make use of European political channels. At the national level, it is common practice for German interest representatives to participate



in ministerial advisory committee meetings and public hearings of permanent committees of the Bundestag, as well as to cultivate informal relations with ministerial representatives. These various channels provide interest organisations with valuable contacts and experience that they are able to utilise at the European level as well. As such, empirical evidence displays a certain continuity between the national and supranational political scenes that well-integrated interest groups are able to exploit in a multi-level setting.

On the contrary, findings demonstrate a minimal activation of Europe by French interest organisations. In contrast to their German counterparts, the lack of interest in highly skilled immigration policy from both French business organisations and labour unions, combined with a statist system that does not favour the participation of civil society actors in policymaking, provide interesting insight as to why this is so. Regarding the weight of financial resources in explaining the low propensity of French actors to mobilise at the European level, results indicate differences along the group type dimension. As such, results for the CGT and the CFDT show that this factor is of little explanatory value to explain Europeanisation patterns. A possible explanation for this comes from the fact that French labour unions, unlike their German colleagues, are traditionally not involved in labour migration policy targeted at highly skilled personnel. By contrast, French business organisations underlined the capacity of staff size to reinforce a choice of strategy. Both the MEDEF and the CGPME showed little interest in highly skilled immigration policy in the first place, but their limited human resources confirmed this line of conduct. The gap is most striking between the single person at the MEDEF responsible for monitoring both European and international developments and the team of over 10 persons at the BDA working on labour market issues at home and in Brussels.

The exploration of the cognitive dimension of Europeanisation in this thesis equally brings a distinctive contribution to the existing literature. Findings highlight changes of domestic interest groups' perception on labour immigration in the three countries under study (i.e. a shift to the idea of 'managed immigration', see chapter 6) but no discernible causal impact of European integration on these perceptions. In other words, the European Union had no effects on national actors' cognitive shifts. Results are particularly informative in the German case, as one could have expected that high supranational mobilisation would have translated into a

relatively high receptivity of European referents, and therefore substantial ‘cognitive’ Europeanisation dynamics. In reality, the strong inclination of German actors to turn to Europe during the making of the Blue Card Directive was mostly motivated by their desire to curtail EU involvement in the field of labour immigration policy. Such a ‘negative mobilisation’ was certainly not conducive to EU-induced effects.

In order to explain these cognitive changes, the thesis presents a series of alternative domestic and global factors. These explanations contribute to the mapping exercise of trying to circumscribe the influence of the European Union. Among other plausible explanatory factors, the study underlines the weight of domestic concerns related to an ageing population and a decline of the working population to justify the need to develop a legal immigration policy. It further stresses the effects of the multiplication of economic ties across the globe and the advent of the so-called ‘knowledge economy’ on European economies. Finally, evidence points to the influence of transnational networks on the global diffusion of the idea of ‘managed migration’. Organised around central information providers such as the OECD or the United Nations, these networks rest on competitive emulation among countries that try to attract the best and brightest.

## **7.2 Limitations of the research**

The use of a qualitative research approach, while capturing the social world in considerable depth, also encounters limits. In the context of this thesis on ‘strategic’ and ‘cognitive’ actors’ Europeanisation, three such limitations in particular should be noted. The first two presented below concern the ‘strategic’ understanding of the concept, whereas the third relates to the study of cognitive change.

The first limitation has to do with finding relevant interlocutors, who are able to share relevant information. Given that the thesis rests, for a substantial part, on personal interaction for data collection, this downside of the qualitative research approach was particularly pregnant. In fact, identifying and getting hold of the right persons proved to be time-consuming and labour-intensive. For one thing, most of them had left the organisation they were working for at the time of the Blue Card Directive policy-making process and could therefore not access in-house information anymore. Moreover, considering that most of them had not kept data on

this particular dossier, they could not recall their involvement in the Blue Card policy process in detail. General remarks, as well as discussions tending to deviate from the core subject proved of little academic use. Difficulty in identifying relevant interlocutors was reinforced by the fact that a number of them had retired, therefore disappearing from professional networks and institutional directories, not to mention those who are deceased.

Besides identifying relevant interlocutors, dealing with limited access to information in a sensitive field constituted a second major drawback. The choice of a qualitative research design, and the fact that an important part of the analysis relied on semi-structured interviews, meant that data collected from personal exchanges deeply affected the quality of the analysis. The field of legal immigration, and highly skilled immigration policy in particular, is a very sensitive policy area both in domestic political debates and at the EU level. It touches upon a variety of sovereignty-related subjects beyond immigration per se, including who is allowed to access the domestic labour market or who can benefit from public services. Against this backdrop, retrieving valuable information was challenging and, at times, out of reach. Assuming that the data had not been lost, accessing it implied the assistance of well-intentioned individuals willing to dedicate time and effort to a task with little reward or gratification in sight.

Finally, one should acknowledge difficulty in exploring actors' cognitive change in a multi-level environment. Focusing on the qualitative aspects of this change certainly enables us to do justice to the nature of the topic, considering that stakeholders are seen as actively contributing to the formation of the social environment in which they operate. This said, changes of perceptions over time are not always easy to trace. What is more, although clear cognitive shifts may be visible, isolating the impact of an individual factor (here, the European Union) on actors' views is a very difficult endeavour.

### **7.3 Contribution of the thesis**

The thesis offers the first exhaustive analysis of the Blue Card policy-making process. In addition, this empirically rich qualitative work distinctly unveils patterns of actors' Europeanisation resulting from the interaction between a series of interlinked variables. These connections suggest that there is much to gain from combining the two definitions of the

concept of Europeanisation used in this thesis (i.e. 'strategic' and 'cognitive'). Such a perspective arguably enables us to enrich our understanding of Europeanisation dynamics by incorporating both the behaviour of actors operating to some extent as rational strategic stakeholders and the broader political space in which these stakeholders evolve. Unpacking the notion of 'multiple embeddedness' of actors at both the national and European levels seems particularly useful, as the ways in which these stakeholders navigate in a multi-level environment have implications both in terms of opportunity structures and actors' cognitive frames. To quote Jan Beyers, this enables to '[...] focus on the individual without losing sight of the broader context in which this individual is embedded' (Beyers 2005, p.902). With this in mind, the paragraphs below highlight how different explanatory factors intersect both within each of the three cases under investigation (i.e. Germany, France, and Luxembourg), as well as across these countries.

The German, French and Luxembourgish cases each bring to light particular Europeanisation patterns. As far as the 'strategic' understanding of Europeanisation is concerned, findings demonstrate that the high supranational mobilisation of German business and labour organisations in the making of the Blue Card Directive rests primarily on their substantial financial resources and on the nature of the domestic interest intermediation system. As such, German stakeholders benefitted from a rather comfortable position both at the EU level, where they could mobilise big teams on the topic of highly skilled immigration, and at home, where they were fully integrated into the domestic corporatist system. These results indicate a close link between the national and European policy levels, as these actors were able to navigate in a porous multi-level environment, which allowed them to use their assets in their home country and beyond. In other words, the 'multiple embeddedness' of German actors in both domestic and European political arenas facilitated their participation in the making of the Blue Card Directive at the supranational level.

However, it is interesting to note that such intense EU level mobilisation and social interaction did not translate into an internalisation of European referents, otherwise known as 'socialisation' (see Beyers 2005; Harmsen and Paris 2015). Despite extensive contact with European ideas throughout the Blue Card Directive policy-making process, positions held by German economic representatives were primarily motivated by domestic concerns, which

were incompatible with the setting up of an EU policy in the area of highly skilled immigration. In fact, this 'negative mobilisation' from the part of German actors excluded any kind of cognitive Europeanisation process. Here, the predominance of domestic concerns rendered any EU-induced reconceptualisation of actors' assumptions and allegiances impossible.

Although much less inclined to make use of the EU level in comparison with their German colleagues, results point to the impact of financial aspects (at least for employers' organisations) and to the nature of the domestic interest intermediation system on the behaviour of French economic actors, yet in radically different ways. Whereas German actors were able to exploit their 'multiple embeddedness' to their advantage in order to promote their positions, the study demonstrates that French stakeholders predominantly centred their activity on the national level, and on topics other than highly skilled immigration, therefore largely excluding the supranational level from their sphere of action. Given their minimal participation in European debates on the EU Blue Card permit, evidence shows an absence of 'socialisation, or [...] social processes taking place at the European level through which the interests and identities of actors change as a result of interaction with the European Union' (Harmsen and Paris 2015, p.139). Cognitive Europeanisation could clearly not take place in these circumstances, where there was neither a perception of strategic interest nor an engagement with wider normative environments.

Findings regarding the Europeanisation of Luxembourgish actors are scarce due to the absence of any move to Europe on the topic of highly skilled immigration policy. As in the German and French cases, there is wide support for the hypothesis that interest groups with more financial resources are more likely to display engagement at the European level. As such, limited staff partly explains why Luxembourgish economic actors did not engage with the topic of highly skilled immigration at the supranational level. In addition, the low salience of the issue in the eyes of domestic actors did not promote any kind of involvement in supranational venues. The ways in which these two explanations intersect (or their importance in explaining the absence of Europeanisation) are of particular interest. Limited capacity was reinforced by a congruence of European and national policy goals, and by a broad pro-

European orientation, which rendered the Blue Card Directive, perhaps somewhat paradoxically, both uncontentious and unnecessary.

In addition to providing valuable results on the Europeanisation patterns of German, French and Luxembourgish actors individually, this detailed qualitative work also presents unique transversal findings as regards actors' Europeanisation. In particular, when comparing the different national patterns, it appears that the interplay between financial resources and domestic interest intermediation systems is key and deserves further attention. In the German case, the national corporatist interest intermediation system provides both access and resources that can be translated to the European arena. Hence, the strong engagement of German actors at the European level may be traced back to a virtuous relationship between a national system open to interest groups' involvement in policy making and sufficient staff, even if no 'Europeanisation' in the sense of an EU-induced change of actors' perceptions occurred. Turning to the French case, the intersecting factors of resources and domestic intermediation system also provide interesting insight. Here, the low level of resources of French interest groups combined with a statist interest intermediation scheme produced a strong disengagement of these actors from the European political arenas. Finally, the interrelationship between the corporatist interest intermediation system of the Grand Duchy of Luxembourg and particularly limited capacity (due to the small size of the country) led to the absence of Europeanisation dynamics on the part of national economic actors. However, unlike their French counterparts, whose disengagement from the European level was clearly influenced by a negative policy orientation at home, the absence of Luxembourgish actors at the EU level was paradoxically reinforced by a rather general pro-European stance.

## **7.4 Considerations for future research avenues**

This actor-centred research opens a series of new research agendas that merit further development. I would like to suggest two avenues in particular, that is conducting further research on the Blue Card Directive policy-making process itself and embarking on a thorough reflection on the notion of 'actor'.

As regards the first research perspective, the bulk of Europeanisation studies until this day has mainly considered politics, policy and polity (see, for example, Harmsen and Paris 2015). By

comparison, attention granted to the Europeanisation of actors has remained limited. Taking the discussion on activities of national interest groups further to include the latest developments of Blue Card Directive would participate in the more systematic exploration of Europeanisation dynamics centered on actors. Beside this general motive, the revision of the 2009 Blue Card Directive launched by the Juncker Commission in 2015 (Commission of the European Communities 2015a) is likely to provide enlightening data on the Europeanisation of domestic interest groups. It should be the case for at least two reasons.

Assuming that the research is carried out in the near future, scholars would be able to rely on first-hand information and to observe the process unfold before them. Many of the difficulties as regards access to data encountered in this project would thus not present themselves. It is further notable in this regard that the involvement of interest organisations in the new policy process is clearly deeper and more systematic than in the past. Unlike what I observed in the thesis, the European Commission today is very open to external inputs, encouraging interest organisations to share their position and expertise on legal immigration. Thus, the EU environment is substantially more dynamic in terms of interest group representation in the field of legal immigration than it was ten years ago or so. As an illustration, the European Commission organised an online public consultation on the EU Blue Card and the EU's labour migration policies (Commission of the European Communities 2015b), DG Home created an Expert Group on Economic Migration in charge of supporting policy developments in the area of economic migration, including highly skilled immigration (Commission of the European Communities 2017a), not to mention the 'Contact Group Legal Migration' (Commission of the European Communities 2017b). While researching a current policy process poses challenges of its own, there would nonetheless presumably be plenty of material to exploit.

Beyond the Blue Card Directive policy making process, advancing the research agenda on the Europeanisation of actors requires the further conceptual development of the notion of 'actor' itself. As underscored in this work, discussions on actors' Europeanisation have mostly depicted the move to Europe as a strategic endeavour, thus overlooking multiple additional aspects that could help us refine our understanding of their behaviours and motivations. The thesis may be seen as a first step in this direction, given that it incorporates both a strategic and a cognitive understanding of actors' Europeanisation. Further research in this perspective

would be most welcome, as it would not only consider actors themselves, but also the context in which they are embedded. In this perspective, the concept of 'multiple embeddedness', which encompasses both individual actors' strategies and the environment in which they maneuver, appears particularly promising. In this vein, my work suggests that understanding actors' decisions presupposes taking into consideration a multi-level playing field encompassing the national and European levels, as well as the global dimension of policy developments. While the activation of multiple spheres by stakeholders is not systematic, adopting a broad outlook on the political context allows for a thorough exploration of actors' behaviours in relation to the multiple sites of power and meaning by which they are dynamically (re-)shaped.



## List of interviews

- Interview 1 Director of Migration and Mobility Policies, EPC, conducted on 4 June 2014.
- Interview 2 Former Head of Unit (acting) 'Immigration and integration', European Commission, conducted 4 May 2016.
- Interview 3 Political Administrator for External Relations, Asylum and Migration, General Secretariat of the Council, conducted on 24 March 2014.
- Interview 4 Head of Department for Labour Market, Labour Law and Social Dialogue, ZDH, conducted 15 April 2016.
- Interview 5 Director for Social Policy and Vocational Training, European Association of Craft, Small and Medium-sized Enterprises, 9 April 2015.
- Interview 6 Head of Unit, German Confederation of Skilled Crafts, Representation to the EU, conducted 8 April 2016.
- Interview 7 Senior Advisor, BDA Representation in Brussels, conducted 28 April 2016.
- Interview 8 Advisor for Employment, Education and Skills, Migration and Mobility Policies, Social Affairs Department, BusinessEurope, conducted 23 January 2014.
- Interview 9 Head of Division Migration and Anti-Racism Policy, DGB, conducted 25 April 2016.
- Interview 10 Advisor, ETUC, conducted 10 October 2014.
- Interview 11 Director for EU Policy, Confederation of Danish Employers, Brussels office, conducted 20 June 2016.
- Interview 12 Senior Advisor, BDA, conducted 26 July 2016.
- Interview 13 Former Director, Directorate B 'Immigration, Asylum and Borders', DG Justice, Freedom and Security, European Commission, conducted 21 April 2014.
- Interview 14 Deputy Director, Department M 'Migration, Refugees and European Harmonisation', BMI, conducted 20 April 2016.
- Interview 15 Deputy Head, BDA Representation in Brussels, conducted 1 April 2016.
- Interview 16 Former Advisor, LIBE Committee, European Parliament, conducted 3 June 2014.
- Interview 17 Former EU civil servant at DG EMPL, European Commission, conducted 22 May 2014.

- Interview 18 Association of Saxon Economy (*Vereinigung der Sächsischen Wirtschaft, VSW*), conducted 21 April 2016.
- Interview 19 Regional Employers Association of North Rhine-Westphalia (*Landesvereinigung der Unternehmensverbände Nordrhein-Westfalen*), conducted 26 April 2016.
- Interview 20 BAVC Representative, conducted 25 April 2016.
- Interview 21 Lawyer, Representative to EU institutions, IG BAU, conducted 1 December 2016.
- Interview 22 Former Head of the 'Education Policy and Labour Market' Department, Bitkom, conducted 22 November 2016.
- Interview 23 Former Head of the Labour Department, Social Relations Division, MEDEF, conducted 17 June 2016.
- Interview 24 Deputy Director General, BusinessEurope, conducted 6 July 2016.
- Interview 25 Former Deputy Director for Social Affairs, MEDEF, conducted 18 July 2016.
- Interview 26 Director for 'Social Policy and Vocational Training', UEAPME, conducted 9 April 2015.
- Interview 27 Confederal Secretary for migrant workers, CGT, conducted 25 November 2016.
- Interview 28 Confederal Secretary in charge of immigration and liberties, CFDT, conducted 21 September 2016.
- Interview 29 Confederal Technical Advisor, Europe and International, FO, conducted 16 June 2016.
- Interview 30 National Secretary in charge of Europe, CFE-CGC, conducted 9 July 2016.
- Interview 31 Head of office, CEC European Managers, conducted 2 August 2016.
- Interview 32 Head for European and Institutional Affairs, CGPME, conducted 1 July 2016.
- Interview 33 Former Director, Directorate B – Immigration, Asylum and Borders, European Commission, conducted 21 April 2014.
- Interview 34 Former Head of Unit (acting), Unit B1 – Immigration and Integration, European Commission, conducted 4 May 2016.
- Interview 35 Director for Social Affairs, CGPME, conducted 16 June 2016.
- Interview 36 International and European Sector, FO, conducted 16 June 2016.
- Interview 37 Head of the Migrant Department, OGBL, conducted 3 March 2015.
- Interview 38 Secretary General, Fedil, conducted 20 October 2016.

- Interview 39 Former Advisor, BDA, conducted 26 July 2016.
- Interview 40 Former rapporteur of the Blue Card Directive, European Parliament, 14 December 2016.
- Interview 41 Advisor, Service M3 'Right of foreigners', BMI, conducted 20 April 2016.
- Interview 42 Advisor, Directorate of Immigration, Ministry of Foreign Affairs of Luxembourg, conducted 28 October 2013.
- Interview 43 Former Senior Legal Advisor, Employer's Affairs, ABBL, conducted 26 July 2016.
- Interview 44 Justice and Home Affairs Advisor, Permanent Representation of Luxembourg to the European Union, conducted 4 June 2014.
- Interview 45 LSAP Deputy, conducted 25 June 2013.
- Interview 46 Former General Secretary, and subsequently Director of the UEL, conducted 25 April 2017.

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